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AND
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OF
ROBERT B. SMITH,
GOVERNOR OF THE STATE OF MONTANA,
1897-1901.

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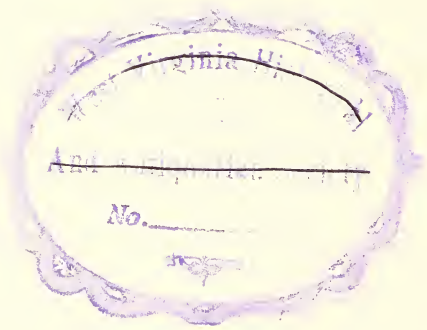

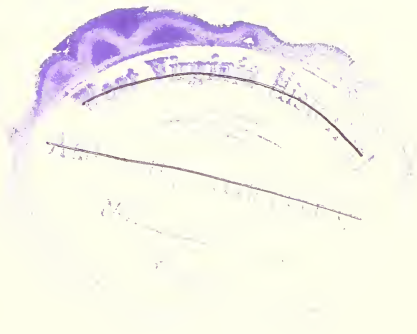

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MESSAGES

AND

Public Documents

OF

Governor Robert B. Smith

1897-1901

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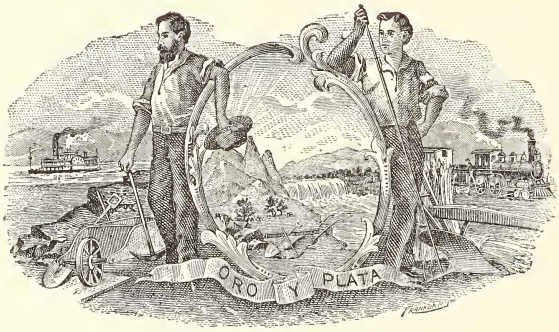
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MESSAGE

TO THE FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA.

State of Montana,
Executive Department,
Helena, January 4, 1897.

Gentlemen of the Fifth Legislative Assembly of the State of Montana:

In complying with the constitutional mandate I must first speak of the expectation in the public mind (and which I believe to be well founded) that the work of this Assembly will be marked by such wise, prudent and just legislation that the public interests will be faithfully conserved and private rights be vigorously defended and maintained in a spirit of equal and exact justice to all.

At the time this intrepid young commonwealth was admitted into the sisterhood of states, her limbs were not shackled with the bondage of debt. The conditions then existing in our common country gave hope of a brilliant career. Supplied, as we are, with all the resources of nature that go to make a rich and prosperous people, this hope was not without foundation for its existence; under these circumstances public opinion supported the demand for the dignity of statehood and the responsibility was readily assumed by our people with all the burdens such position imposes. But conditions throughout the civilized world have changed so rapidly during the last few years that much of our natural resources have been discounted, and so great has been the shrinkage in value of all kinds of property that our people find the burdens of debt and taxation much more onerous than formerly, and while they

find the value of their property greatly diminished and their incomes curtailed, they have seen the cost of maintaining civil government greatly increased. Such conditions cannot be long continued without destroying that patriotic love of country and public virtue which makes a people great; neither can these conditions be further encouraged without bringing dire distress and misery to our people and bankruptcy and loss of confidence in the solvency of our beloved state, whose credit and financial standing in the commercial world must always be maintained above par.

Nothing will so much retard our growth or stay the march of progress as an ever-increasing debt; even though the increase be so small or insidious as to escape public detection or casual observance. The keen eye of capital and the forethought of investors will scan with unerring precision the relations of public revenues and expenses.

Let us then, with a determination and will that shall challenge the admiration even of the "wise men of the east" prove to the world that though our industries are crippled by hostile legislation over which we have no control, that the dauntless spirit of Montana cannot be curbed, her credit impaired nor her march of progress stayed by adverse conditions or circumstances.

By a wise, conservative, liberal course we shall silence and put to shame those who proclaimed, either through the public press or from the rostrum, that a change of political parties in the state meant anarchy, repudiation of our obligations and the inauguration of vicious and hostile legislation inimical to the interests of capital, either local or foreign.

While we recognize at all times the rights of persons, the development of character, independence and intelligence of our citizens, and their protection to be the highest function of civil government, we are, nevertheless, mindful of the just and equitable claims of the rights of capital and property, and to faithfully protect and preserve the rights of each, in their proper sphere, should be our aim and object.

If there is, within the range of possibilities, any degree of prosperity in store for our people under existing national conditions, let us prove, by our course, that we stand ready to invite such prosperity and guarantee equal and exact justice and legal protection to all investors, and that hasty, ill-advised

or radical laws, hostile to any interest or person are not within the scope of reforms contemplated by us.

A firm resolve and determination by each of us to meet the conditions as they exist, and to act solely for the good of the state, forgetting all private interests or personal friends, will go far towards insuring ultimate success in our undertakings. In order that you may solve aright the problems that confront you, it becomes my duty to apprise you of the status of affairs and make such suggestions as I deem expedient to correct any errors that may exist, or inaugurate such legislation as may be thought advisable.

Public Revenues.

Our revenues from all sources for the several funds amounted, during the fiscal year 1896, to the sum of $667,747.03. Of this total sum $436,978.12 belonged to the general fund, the remainder being distributed among the several special funds in various amounts as appears from the report of the state treasurer and the several state boards. I cannot within any reasonable limit undertake to call your attention to the special funds in detail. The general fund being the source from which the running expenses of the state are paid, and upon which most largely depends the financial status of our commonwealth, I have thought fit to deal with that fund alone in my suggestions to the Assembly.

As large as our revenues appears for 1896, it was not sufficient to meet the expenditures.

In order that you may be advised as to the status of this fund, for the past six years, I submit herewith a table showing the conditions of the general fund each year, from 1890 to 1896 inclusive.

Abstract of the General Fund.

Balance on hand Jan. 1, 1890		$ 35,186 37	$ 35,186 37	
Receipts during the year 1890		289,624 88		
Gross amount available		$324,811 25		
Disbursements during the year 1890, warrants paid		143,317 71		
Bal. on hand Jan. 1, 1891		$181,493 54	$181,493 54	
Receipts during the year 1891 to Dec. 1, 1891	$331.301 63			
Receipts during the month of December, 1891, to Dec. 1, 1891	$329,039 70			
Total receipts for the year 1891		$660,341 33		
Gross amount available		$841,834 87		
Disbursements during the year 1891—				
Warrants paid to Dec. 31, 1891	$449,438 79			
Warrants paid to Dec. 31, 1891	83,498 25			
Bonds purchased	20,000 00			
		$552,937 04		
Balance on hand Jan. 1, 1892		$288,897 83	$288,897 83	
(I am unable to make any intelligent statement of the receipts and disbursements of this fund for the year 1892 from the data furnished me.)				
Balance on hand Jan. 2, 1893		$261,787 89	$261,787 89	
Receipts during the year 1893 to Dec. 1, 1893.	$121,614 21	$121,614 21		
Gross amount available		$383,402 10		
Disbursements during the year 1893 to Dec. 1, 1893, on warrants and interest		$338,388 61		
Balance on hand Dec. 1, 1893		$ 45,013 49	$ 45,013 49	
Outstanding warrants Dec. 1, 1893				$237,302 74
Receipts during the year 1893-4 to Dec. 1, 1894		$408,478 61		
Gross amount available		$453,492 10		
Disbursements during the year 1893-4, to Dec. 1, 1894, warrants and interest		$435,055 04		
Balance on hand Dec. 1, 1894		$ 18,437 06	$ 18,437 06	
Outstanding warrants Dec. 1, 1894				$248,320 85
Receipts during the year 1894-5, to Dec. 1, 1895		$418,693 61		
Gross amount available		$437,130 67		
Disbursements during the year 1894-5, to Dec. 1, 1895, warrants and interest		$404,714 72		
Balance on hand Dec. 1, 1895		$ 32,415 95	$ 32,415 95	
Outstanding warrants Dec. 1. 1895				$363,859 66
Cash balance on hand Dec. 1, 1895		$ 32,415 95		
Receipts for the year ending Nov. 30, 1896		436,978 12		
Gross amount available		$469,394 07		
Disbursements during the fiscal year 1896		448,154 69		
Balance cash on hand Dec. 1, 1896		$ 21,239 38		
Warrants outstanding Dec. 1, 1896				$352,338 56
Expenses against general fund not audited for 1896				9,000 00
Estimated deficiency for 1896				17,731 00
Total indebtedness general fund				$379,069 56
Less cash on hand Dec. 1, 1896				21,239 38
Net indebtedness Dec. 1, 1896, general fund				$357,830 18

From this statement it will be seen that while our revenue has steadily increased during the financial stringency and depression of values for the period of our statehood, our increase of revenue has not kept pace with our expenses and at the close of the fiscal year 1896, we find our general fund indebtedness to be $357,830.18. While our gross receipts for 1896 available to the general fund was $436,978.12, the expense of the state, payable out of that fund for the same time was $463,364.59.

You will observe from the foregoing statement that a serious problem confronts us which can be solved corectly and without impairing the efficiency of the public service, if prudence and wisdom serve this chamber.

Two things must be accomplished, the first is, to raise additional revenues without increasing the burden of taxation to our people, and the second is, to curtail the expenses of maintaining our government, state, county and municipal.

Increased Revenues.

How shall we increase the state and county revenues without imposing additional burdens on our tax-payers who are already overloaded? I would answer the question by the following suggestions:

First—Require the treasurers of the state, counties or municipalities to advertise the public funds for deposit and compel the deposit of these funds with such banks or institutions as will pay the best rate of interest on the average daily deposits, and at the same time furnish an absolutely good and secure bond for the safe-keeping of the funds; the bond so furnished for state funds should be approved by the State Board of Examiners, and the bonds for county funds should be approved by the county commissioners; the mayor or city council should approve the bonds offered for the safe keeping of city funds; the interest thus earned on such funds should be covered into the respective treasuries; the treasurers should be relieved from liability occasioned by the loss of public funds when thus deposited, and bonds are approved by the proper officials. This would remove from politics and election the pernicious influence of banks seeking to control public deposits.

Second—The life insurance and fire insurance companies doing business in this state, I am reliably informed, collect from our citizens in premiums nearly one million dollars annually. The risk incurred in such business is certainly the minimum in this state, and the money collected is practically all taken away from our commonwealth. In view of these facts I suggest that you provide such taxes of the gross receipts

less losses by fire or death, and such schedule of license taxes as will produce a handsome revenue to the treasury.

Third—That the tax upon corporations, both foreign and domestic, be amended so that evasion of the same cannot be accomplished by incorporation for a small capital, and immediately thereafter an increase of the capital without payment of the tax, and so that foreign corporations should be compelled to pay the same fees as our domestic concerns. A minimum license tax in all cases should be fixed by law.

Fourth—Experience has taught many of the older states the wisdom of imposing an inheritance tax to be graduated according to the estate inherited and as the holders of property are most vitally interested in the maintenance of law and order, and the fair credit of our state, and because that large property interests seldom pay, proportionately the taxes paid by the poorer classes, a just and fair inheritance tax cannot with justice be opposed, for those who are fortunate enough to inherit estates should be willing to pay for this privilege which so many covet in vain.

Fifth—The cost of maintaining our courts for the settlement of private differences is one of the great burdens of state, and those offices charged with the collection of fees should as near as possible be made self-sustaining, for they who have differences to settle should not call upon the general public to bear all the burdens imposed by the settlement of private accounts. Pay salaries in all instances and let the fees be turned into the treasury. There is but one instance in which private fees or percentage to officers should be allowed, and that is the allowance of a small commission to county treasurers for the collection of license taxes.

In the matter of amendment to our revenue laws to secure uniformity and equal taxation and to correct defects in these laws as they now appear in the codes, I call your especial attention to the exhaustive report of the Board of Equalization, which will be found on your desks, and ask your careful consideration of the same. With most of the recommendations therein made I fully concur and trust that the present inequalities and errors may be corrected as far as possible.

REDUCTION OF EXPENSES.

Places Where the Pruning Knife Can Be Judiciously Applied.

In the matter of economy and the reduction of expenses the pruning knife may be applied vigorously in many places from the top to the bottom. I am fully aware of the fact that I may incur the displeasure of some persons, and perhaps some classes of persons in the recommendations I am about to make, but being fully convinced of the justness of the measures proposed, and knowing as I do, the terrible struggle of our people to maintain their families and bear the burdens of government, nothing can deter me from making those suggestions to you, which I believe will be a lasting benefit to the state and the tax-payers. The office of State Examiner is one provided for in the constitution, but the creation of the office and the emoluments for the officials seemed to be the idea predominant in the mind of the last Legislative Assembly, without giving to the people value for the expenses incurred. The policy of paying a gross sum to an official and allowing him to pay his own traveling and other expenses out of such sum, is, in my opinion, offering to such official a premium not to perform the duties of his office. There are 23 counties and nine state banks requiring examination under the law, semi-annually.

I do not believe one man can do the work; I would threfore suggest that you reduce the salaries of the Examiner and his accountant to such a sum as will amply pay good accountants and public officials for the labor imposed, and in addition thereto, the state should pay the actual traveling expenses of such officials while in the discharge of their duties. If this is done, several thousand dollars will be saved to the state; and if these officials are retained, the office of county auditor should be abolished entirely. By this course an annual saving of at least $10,000 to $12,000 could be accomplished. The Examiner

should be clothed with full power to enforce collections from any officer who is found delinquent or short in his accounts, and the amounts collected covered into the proper treasury.

Our state machinery has been fashioned and modeled sufficient for a state with one million inhabitants, and among the other almost useless bureaus is that of Agriculture, Labor and Industry; there is, in fact, no urgent demand for this bureau, and while it has been presided over by a most able and efficient gentleman, there has, in fact, been no appreciable advantage to the state or the people, and it costs to maintain it about $8,500 annually. "The play is not worth the candle."

If our Agricultural College and Experiment Station be given proper support, it will be of vastly more benefit and importance to our Agricultural and Horticultural industries in the dissemination of useful knowledge than the present bureau can possibly be. With the immigration feature of the present law I wholly disagree; it is setting a trap and snare for the laborers of the world, inviting them to a state already well filled with intelligent, industrious laboring people.

If it be thought by you advisable to continue gathering the statistics concerning the status of labor or other industries in our state, I would suggest that you designate plainly and unequivocally what shall be collected, and compel the assessors of the several counties to collect the information; that you prescribe penalties for a failure to do so, and compel the citizens to give the required information; allow the governor, if it be found necessary, to appoint a competent person at a fair salary to compile and publish the information to be returned to him by the county assessors, and make this same person the immigration officer or agent of the state. By this method you will systematize the collection of data, and it will be done without any cost to the state except the salary of one man. This would effect a saving of from $6,500 to $7,000 per annum. In my opinion the results would be more satisfactory to the laboring classes, because the information would be thus collected in a systematic and authentic manner.

As at present organized, the land department has a state land agent, at a salary of $3,000 and expenses; a register at $3,000, and a clerk of the Board of Land Commissioners at $1,500. The work of selecting and appraising the lands of the state is very far behind, and if the work could be expedited, the

income to the state from rents and sales would be largely increased. I would therefore suggest that the salary of the land agent be somewhat reduced and he be provided with an assistant for at least a year or two, until the lands can be selected and appraised, for it is important that the selection and appraisements be completed as soon as possible, in order that the state may secure the best lands before they are all taken by individuals and that the state secure rent for state lands now occupied and which have not been appraised. The salary of the register should be reduced to $1,800 or $2,000 per annum, and he should be made ex-officio clerk of the Board of Land Commissioners, with authority to make leases or sales, subject to approval by the board. This would systematize the work, secure rapidity of selection and appraisment, increase the revenues of the school and special funds, and effect a saving of from $2,500 to $2,700 in salaries in the office of the State Land Register.

The office of city treasurer is in every case a perfect sinecure and should be abolished, and the county treasurers, who actually do the bulk of the work, should be made ex-officio city treasurers and obliged to perform the duties of that office. This would effect an annual saving of about $30,000 in the state and secure better service.

Persons who seek election to office should be made to understand that they are to be useful as well as ornamental, and, as far as possible, perform individually the duties of the position. As it is now, the officer in charge too often does the ornamental act and the state or county pays for the corps of high-priced deputies to do all the work. The Board of Examiners for the state and the several boards of county commissioners should be authorized in all cases to fix the limit on the salaries of deputies, as well as the number to be employed by any official, or better still, the law might fix the salaries and the number of deputies as far as possible. The cost of maintaining county governments has largely increased during the last 10 years by reason of paying exhorbitant salaries and allowing innumerable deputies. I well remember that when I arrived in Beaverhead County, Montana, 14 years ago, three men and two deputies performed all of the duties of the sheriff, assessor, probate judge, clerk of the probate court, clerk of the district court, county clerk and recorder, treasurer and superin-

tendent of public instruction. It now requires 14 men to do the same work, although the business of the court is less and the assessed valuation no greater. In all cases where mileage is allowed by law to any office or person, such law should be repealed, and actual traveling expenses should be paid upon itemized and verified vouchers. The purpose of allowing mileage is to compensate for the cost of travel, but under this guise officials and persons too often impose upon the people the payment of useless and extravagant bills for the mere purpose of collecting mileage, which is largely a matter of clear profit to the person claiming it. The sums allowed for office and traveling expenses are too often an inducement to officials to be extravagant and to perform useless and expensive junketing trips. These opportunities to squander the public funds should be prohibited and guarded against by some strict rule or law that would prevent such leakages.

Finally, the State Board of Examiners should be given authority to direct and superintend the cost of printing for the state. At present many reports are printed in full which might be omitted or condensed and thus effect a large saving.

The opportunity to incur expense at public cost should in all things be limited as far as possible; though the item of expense, standing alone, is very insignificant, yet from the multitude of such items the aggregate in the end is appalling. These small items, as a rule, escape notice or detection by the public, and while they feel the burden they are unable to locate the cause therefor.

Cost of Legislation.

The assembling and deliberations of the Fourth Legislative Assembly of the state cost the people the sum of $61,474.96. There were more attaches and employes than there were members of the Assembly. Let us indulge the hope that this Assembly may set the mark for future Legislative Assemblies, in the way of economy in its own expenses as well as the character of legislation it may formulate.

National Guard of Montana.

It is scarcely probable that we have reached the halycon days of "peace on earth and good will to men" so that the militia can be dispensed with. A well-trained and disciplined guard, citizens of our own state, precludes the necessity at any time of calling for federal troops or Pinkerton detectives. Therefore, while I favor the state guard within reasonable bounds, I am utterly opposed to maintaining it at the enormous cost shown in recent years. While our schools and educational institutions are struggling for existence, we cannot afford to maintain the militia at extravagant cost, or indulge the vanity of gold braid and military pomp. If we must surrender either our educational institutions or the state guard, then the militia must go. But neither is necessary. The law with reference to the militia can be so amended as to keep the cost of maintenance within reasonable bounds. I append hereto for your guidance a table showing the cost of the state guard from 1890 to 1896, inclusive. The greatest portion of the cost, you will observe by reference to the proper reports, comes from the annual encampment and the allowance of $600 annually to each company for rent of an armory. The cost of our state guard must be materially reduced or else it cannot be maintained.

Table showing annual cost of national guard of Montana:

1890	$ 1,000 00
1891	20,505 00
1892	10,553 20
1893	7,919 64
1894	22,840 09
1895	23,764 79
1896	18,834 61

The Bounty Law.

I desire to call your especial attention to the results of the present bounty law enacted during the closing days of the last legislature. Since that law went into force, up to the first day

of December, 1896, bounty claims have been filed for the killing of wolves and coyotes amounting in the aggregate to the sum of $137,427, and warrants have been issued in the sum of $59,475. On December 1, 1896, there were on file claims for bounty for killing the above-named animals for which no warrants were yet drawn to the amount of $77,952. During the fiscal year 1896 there were killed in Montana 18,216 coyotes and the bounty claims therefor filed aggregated $54,648. The revenues available under the law are not sufficient to meet more than one-half of the claims filed annually for bounty. The result is that payment is deferred so long that the bounty claims or certificates are discounted to such a large extent that they are almost worthless in the hands of the holders, and while the state pays out about $40,000 to $45,000 yearly for bounties, those who engage in trapping or killing these animals secure only a small percentage of the amount allowed by the state for each animal thus killed. It is my observation that coyotes do little or no damage to the stock interests on account of their cowardly instincts. The great damage to our stockmen from wild animals is caused by the gray wolf. I would therefore recommend that all bounty laws be repealed except the bounty on gray wolves, and as to these the law be framed so as to prevent as far as possible frauds or the imposition upon public officials of the hides or scalps of coyotes for those of gray wolves. By confining the bounty to these animals alone, the revenues will meet the demands, and the hunters and trappers will receive cash for their claims, and the incentive to hunt and kill these destructive pests will be multiplied by the increased cash value of their certificates. Coyotes will probably be killed by the same persons who are seeking to kill the wolf, and better results, in my opinion, will be accomplished than is to be expected under the present law.

BUILDINGS AND INSTITUTIONS.

Recommendations of the Several Boards Should Be Studied—The Capitol.

For an exact detailed account of our public institutions, I must call your atetntion to the various reports of the boards of directors and managars of the same. Their great number and variety prevent discussion in detail except in a few instances.

The State Reform School is nearing completion and is in successful operation, and the same may be said of the Orphans' Home. Considerable progress has been made toward the construction of the Agricultural College, the Normal School, the School of Mines and the Deaf and Dumb Asylum. While the buildings of the Agricultural College are not yet completed, the school has been in successful operation for several years with a full corps of instructors in all departments, and I believe the Deaf and Dumb School is also in actual operation. Our University has been opened under the direction of Presirent Craig with gratifying results, considering the fact that he began the school without a building belonging to the state, or any kind of equipment for a school.

I trust you will consider most carefully the recommendations of the several boards, and where appropriations are properly demanded or asked, give such, as in your judgment, are needed, but do not make large appropriations simply because asked for, or where it is doubtful about a fund sufficient to meet the same, and in all instances I would require an itemized account of the purpose for which the appropriation is demanded. While I do not wish to be penurious with our educational institutions, the way to make them strong and enduring and a credit to our state is to reserve our strength and resources while we are yet young, whereas, if our funds are

exhausted and there is nothing held in reserve, and debts or unpaid obligations hang over our schools and educational institutions, they will succumb to the inevitable fate that falls to all such institutions encumbered with debt, and will remain for all time a monument to our folly. Our state having adopted the expensive and inexpedient course of segregating our colleges, we must make the best we can, but destroy none by over-indulgence now.

State Capitol Building.

What I have said with reference to the progress made in the erection of our schools and other public institutions, I am sorry cannot, with due regard for truth, be said about our state capitol building. Our last legislature seemed to be imbued with imaginative minds. The law providing for the erection of the state capitol contemplates a building to cost one million dollars, without having provided any sufficient way to pay for the same. It is perfectly apparent to any candid mind that we can never dispose of warrants or bonds based upon our land grant of sufficient sum or value to construct the building contemplated by our last legislature and undertaken by the Capitol Building Commission, and it is also apparent that if we were successful in finding some one who would advance the money to build a million-dollar capitol, the land grant could never pay for the same. It would indeed be gratifying if we could afford the luxury of such a magnificent state building as that projected, but our capitol commission, after spending almost a year in their efforts, and at considerable cost, are confronted with the impossibility of securing money for the construction of the capitol unless the state will undertake to guarantee the payment of the interest on the loan. The interest, at the lowest estimate, would annually reach the sum of $50,000. It is not probable that our land grant of 182,000 acres would during the next ten years yield a return of more than $25,000 per annum. This would leave a deficit of at least that sum to be paid each year out of our already depleted general fund, nor is it likely our grant for the capitol building could ever pay the principal, and we would either have to pay it from other

sources or else suffer the imputation of being repudiators.

I, for one, am not willing to secure money for building our state capitol without in good faith repaying every dollar with the interest stipulated, neither am I ready to assist in placing upon the shoulders of our people a tax that will destroy private homes and cottages in order that we may build a state palace. The power and strength of a commonwealth is not measured by the artistic beauty of its public buildings, but by the prosperity, intelligence and contentment of its people. If we have made a mistake in the past, the sooner we correct it the better it will be for all concerned.

If some money has been unwisely expended, let us stop before wasting any more. We would better charge it off to profit and loss and start with a clean balance sheet.

The grant of land for capitol building purposes is sufficient to pay for a fair building, without imposing additional obligations on the state. If we had no land grant, I dare say our people would not be willing to undertake an extravagant state capitol.

I therefore suggest that the legislature provide for bonding the land grant to the extent of $300,000 at five per cent interest; that you provide for a capitol building to be erected at once costing not to exceed $300,000; that it be so constructed as to present the appearance of a finished and complete building, but so arranged, that if required, additional wings can be added without impairing the beauty or symmetry of the structure; that a commission be authorized to carry out the design of the legislature in such manner as to you may seem fit and proper.

By adopting this course, the bonds can be readily placed and when the money is obtained our land grant will repay it all with interest as it falls due, without laying additional taxes. And our state will have a capitol building that in all probability will be amply sufficient for the next century, and such a building can be furnished and equipped and ready for occupancy by the state within reasonable time; whereas, if the law remains as it is, we can never accomplish the purpose intended. In any new law or amendment which you may undertake, either in regard to our capitol building, or any other enterprise of the state requiring the pledge of our credit or resources, I would urge the issuance of bonds rather than scrip, because they are more commercial and more readily disposed of for cash at a lower rate of interest than scrip.

Insane Asylum.

It is a duty imposed on each state to take proper care of those unfortunate citizens, who by reason of their mental derangement are incapable of caring for themselves. This is one of the most delicate, and yet at the same time one of the most expensive institutions committed to the care of the commonwealth. The cost of keeping our insane for the fiscal year, 1896, amounted to $118,600.40, or more than one-fourth of the total receipts of the general fund of the state. This enormous expense cannot be avoided while the state is without an asylum of its own. Certainly no better time could be found in which to purchase property or erect proper buildings for the treatment and safe keeping of our insane. I would therefore suggest that you pass such laws as may be necessary, authorizing and empowering the Board of Insane Commissioners to purchase a proper site and erect suitable buildings for the keeping and treatment of our insane.

It may be that a portion of the lands and buildings at Fort Ellis, which belong to the state (so long as they are used for some public purpose) could at slight cost, be fitted and arranged for an asylum. I merely suggest this for your careful consideration. If an asylum is either purchased or built, provision should be made for the appointment of a keeper by the Governor. The system of letting the keeping of the insane by contract connot be defended in principle. Under such system there is no inducement for the contractor to discharge patients when well or cured.

I would suggest that you carefully examine the law with reference to the method of trial and admission of persons to the asylum. Care should be taken that none be admtited except those who are entitled to the aid of the state. I am afraid that persons who ought simply to be in some hospital are too often by the courts committed to the asylum. In all instances where the patient has an estate, the estate should be charged with the keeping of such person, and if there are any relatives who are legally bound to support such persons as are committed to the asylum, the court committing the patient should adjudge the charge of keeping to be paid by such relatives or persons legally bound to support them, and

the county attorneys of the several counties should in all cases be charged with protecting the interest of the state in all such matters, as I have herein suggested or which in the wisdom of this assembly may be thought advisable.

State Prisons and Prisoners.

Perhaps there is no question that presents so many perplexing phrases as the proper method of keeping and treatment of our convicts or criminal classes. The real object to be attained, if possible, in the confinement and treatment of our criminal classes, is first to place them in such a position, that they can no longer prey upon the law abiding citizens of the state, and secondly, to reform, if possible, the criminal and make of him a law respecting citizen. The cost of maintaining our convicts for the last two fiscal years has been 35 cents per day per capita; a sum that is perhaps less than any other state in the union. Out of the appropriation for 1895 and 1896, enough has been saved which, together with the work of the convicts, has built a new prison with a total capacity of 288 prisoners, being a greater capacity by 106 than the old prisons previously built.

The prisoners have been safely kept and the sanitary conditions are as good as it is possible to have them, and the discipline could not well be improved upon. The question that requires attention most, is that of enforced idleness of the convicts. I am fully aware of the fact, that many persons oppose the employment of prison convicts in any kind of labor. This view of the case I am constrained to believe is not well taken. If the prisoners are kept idle, the cost of their maintenance is increased and this burden largely falls on the shoulders of free labor. Idleness breeds vice and makes confirmed and hardened criminals, to be turned loose upon the state at the expiration of their terms of imprisonment. In my opinion nothing can be more cruel and inhuman to those confined in our prisons than enforced idleness.

Many persons, who in the heat of passion or through the natural weaknesses of human nature, commit offenses that necessitate their confinement in prison on account of the in-

fraction of our laws, may not at heart be criminals and they should not be made such by their treatment in the penitentiary.

But if confined in idleness for a number of years, surrounded with nothing but criminals, and left to their own thoughts and such associations exclusively, at the expiration of their term of confinement they emerge from the prison gates confirmed criminals, degraded in their own estimation and caring little or nothing for the opinion of mankind. It was a part of the plan of creation that mankind should eat bread by the sweat of his face. There is nothing that brings contentment to the mind like honest toil. Work is the most ennobling and civilizing influence exerted upon the world. It is truly said that "an idle mind is the devil's workshop," and I am convinced that if our laboring people will consider carefully every phase of the question, they cannot find any reasonable excuse for opposing labor by our convicts.

Under the Carey act the State of Montana can, by building reservoirs and canals in order to reclaim our desert lands, secure title to one million acres of such lands now belonging to the United States. Whether you provide for a warden and for keeping the prosoners by that method, or by letting a contract for their keeping, I would recommend that you empower and authorize the Governor or Board of Prison Commissioners to employ as many of our convicts as can safely be employed in the construction of reservoirs and canals for the reclamation of our desert lands, thus securing to the state at small cost a most valuable body of land which will serve to make homes for those seeking them within our borders. Provide also for the employment of such prisoners for performing any other work of like nature to be done by the state. If these prisoners be thus employed in constructing canals, reservoirs or other public works of the state of that kind, all that is needed in the way of money to perform the undertaking is to furnish the tools, provisions and material upon which the labor is to be expended, and the proper and necessary guards for their safe keeping. The latter will be slightly greater than the number at present employed.

As to the beneficoial results to be achieved by prison labor, I call your especial attention to the report of the State Board of Prison Commissioners and to the report of Mr. James McCalman, superintendent of construction of the new prison build-

ing. Such employment of our prisoners reduces the cost of their maintenance, makes possible at nominal cost public works and public undertakings, engages the convicts in honest toil, and withdraws their minds from criminal plots, schemes or associations, and often results in turning them loose at the expiration of their sentence as accomplished workmen and skilled laborers, ready to engage in an honest effort to make a living and become respected and trusted citizens. Where the advantages are all on one side and the errors on the other, I do not believe this assembly will make a mistake. I trust, therefore, that these suggestions and recommendations may receive your most careful consideration.

Public Schools.

No particular branch of our state government is so near and dear to our people as our public school system. It is one of the grand triumphs of popular government in the nineteenth century. The people are devoted to our public schools and freely vote taxes whenever they are to be used to further promote our public school system. But, like every other matter requiring public attention, abuses and disturbing factors occasionally work into it that need correction. Inasmuch as large amounts of money are expended by our school trustees, I would suggest that you throw such safeguards around their election and conduct in office as will secure the expressed will of the people and a judicious and careful expenditure of public moneys. For several years past our legislative assemblies have been the prey for rival school book companies, and discord and discredit has too often followed in their wake. I would therefore suggest that you empower the State Board of Education to make selections and adopt a uniform system of text books for our public schools, and thus prevent the too frequent wrangles and disputes about what books are to be used in our schools, and at the same time remove from the precincts of the legislature all incentives for the presence of school books agents.

In some things our public school system is yet imperfect. We have free school houses, free fuel, light, water and tuition,

but so far we have no free school books, and while it may seem a small matter, there are in our beloved state scores of children unable to attend school on account of not having books. Many poor parents are unable to provide proper books for their children, and those who can furnish them are compelled to pay two prices for the books they do purchase. I would recommend therefore, that you provide for free school books. Authorize the State Board of Education to select and purchase the text books for the state at large, and furnish them to each district at cost upon requisition of the local board of trustees, and let the school districts pay into the state treasury the cost of books so furnished them. In this way there will be no additional cost to the state treasury. Each school district will then have a pride in preserving the public books, and the cost of patrons will not be more than 50 per cent of the cost where books are bought at retail by individuals. In the end the matter of cost to our people will be an item worthy of consideration, and every child will be provided with books. Allow every person desiring to buy books individually the privilege of getting them from the trustees at cost. By this means those who desire to own their books can do so at reduced cost, and no one will be deprived of a chance for an education on account of being unable to provide the necessary books.

Amendment of the Laws.

I am disposed to advocate that policy which will, as far as possible, maintain the permanency and stability of our law; I believe the great trouble with the world is a tendency to change and alter the laws too rapidly. Instead of not being governed enough, I fear we are governed too much; therefore, where the laws in the codes are not too conflicting or erroneous leave them. We would better endure some inconvenience in the law and have it fixed and certain than to be in ignorance of the law by reason of its manifold changes and uncertainties. The law in reference to the rule of fellow servants should be changed to meet the enlightened views of the age. The attachment law, and the probate laws, which allow a living person to testify as to contracts or conversations had with a deceased person, should be amended.

The law with reference to the collection of school taxes, and the municipal incorporation laws should each receive attention at your hands. A plain, concise and conservative law regulating and controlling the method of organization of domestic incorporations, and the control and manner in which foreign corporations may transact business in our state, should be enacted to relieve us from the confused condition in which these subjects are left in the several codes.

I cannot be expected to cite you to all other necessary amendments on account of their great number, but your own knowledge of these defects will aid you in arriving at a correct solution of the manifold errors. Suffice it to say that where the error is slight or unimportant and the intention of the law is manifest, leave it alone, would be my injunction in such cases.

Railroad Legislation.

In the mind of many the time has arrived in Montana when something might be done toward controlling and regulating in some manner railroad traffic and passenger travel in our state. I do not doubt the statement that there are perhaps inequalities and other matters in the conduct of our railroads that ought to be regulated by law. I do not believe, however, than any radical or ill-advised legislation should be undertaken at this time, neither do I believe in the creation of any expensive system of government to control these corporations, such as high-priced railroad commissioners. I would suggest, therefore, that if anything be undertaken toward regulating or controlling the passenger travel or freight traffic on our railroads, that you form a railroad commission of three of the state officials, elected by the people—say the governor, attorney general, and state treasurer, and confer upon them full power to fix passenger and freight rates, to regulate and control in the proper lines the operation, running and management of railroads in our state; to prescribe proper rules for the safety and comfort of passengers and employes, and to see that no discriminations or disadvantages are allowed to any person or place, nor improper restrictions imposed by the transportation companies upon passengers or shippers. I believe the people

can safely entrust these duties to their regularly chosen officials and that such persons can perform the duties of the commission without imposing additional burdens on the people by creating new offices.

Our Public Lands.

The state of Montana is endowed with a public land grant amounting in the aggregate to almost six million acres and under the Carey act can, by proper care and industry, acquire at nominal cost one million acres more.

This vast domain is granted to the state for various purposes, but the greater part is given to our schools and educational institutions. The people are not perhaps advised of the magnitude of our endowment, but if care is taken to preserve this donation, no state will be better equipped for the education of coming generations than the commonwealth of Montana. But if our vast land grant be frittered away, wasted or disposed of during these depressed times, individuals will secure the benefit and the state will lose the advantages it now possesses. I am fully persuaded that the state should not sell or part with any portion of its land grant, but should maintain it intact as an inheritance for coming generations. At the present time no part of the grant could be sold for its true worth, and only the choice portions could be sold at any price.

Our grazing lands cannot be sold at any price that would justify such action by the state, while if retained and rented from year to year the rental in a very few years would equal the present selling price, and if they are held by the state, they will for all time furnish a perpetual and increasing income far greater than could be secured from interest upon the selling price of such land, and by retaining the same there can be no possibility of loss of the principal invested.

The same may be said of our agricultural lands, while the sale of our timber lands would be wasteful in the extreme. At present the timber lands if sold, including the timber, would bring no more than the sale of the timber alone. In fact, we would be giving away the land. I would advise, therefore, that the timber only be sold and the land retained. Some

of these timber lands are valuable as agricultural land, and in time would be an additional source of revenue for the state, while the rocky, mountainous timbered lands will in the future produce another growth of timber for the benefit of the state, or upon exploration may prove valuable for the minerals they contain. I would recommend that you offer to all persons, settling upon lands of the state and paying rental therefor to the state treasury, immunity from taxation upon all personal property owned by such settler. In other words, the land rentals should take the place of all property taxation of persons residing on the state lands. I am fully convinced that if this method is pursued, and these inducements offered to settlers, in a few years our state lands will be fully occupied by a contented and prosperous population. Allow them to sell or dispose of their own houses or improvements at will, the state simply collecting the annual rental value of the lands in lieu of all property taxes. Such a course will at once attract attention throughout the United States, and settlers will eagerly seek for such lands and establish homes thereon. I would therefore recommend that you submit to the people of the state a constitutional amendment forever prohibiting the sale of the lands now belonging to the state, or which may hereafter be acquired, except such sales as may possibly be necessary to satisfy any lien imposed by bonds already issued or that may be issued prior to the enactment or adoption of such constitutional amendment, and providing that personal property and improvements of persons residing on said state lands be exempt from taxation. If the course herein suggested is pursued, I am satisfied that the best interests of the state will be promoted, and in a few years the wisdom of your action will be acknowledged by every one.

In this connection I desire further to call your attention to another feature of this land question. I believe that the inducement for private individuals to attend tax sales and buy in lands for delinquent taxes should be discouraged as far as possible. Reduce the rate of interest to be paid by any person seeking to redeem lands sold for taxes to such a point that the harvest of the money lender will not be so productive at tax sales and redemptions. By the present course the only person benefited is the broker or money lender, who takes no chances and yet secures the highest rate of interest for his investment,

while the unfortunate citizen who was unable to meet his taxes when due the very person most deserving and needing the advantages to be obtained by just legislation is made to bear unusual burdens to redeem his home or sacrifice it. Adopt that policy which will discourage private tax purchasers by making the rate of interest less on redemption, say eight per cent per annum, and encourage the state to buy all lands sold for delinquent taxes. If the lands are not redeemed, make the title of the state good and perfect. And in this way the state is a great gainer in securing lands which it may rent. If the lands thus purchased are redeemed, the redemptioner is benefited by being permitted to redeem his lands at less cost, and the commonwealth is also beneficially interested in that it receives the tax levied, together with accumulated interest.

Semi-Annual Payment of Taxes.

As the law now stands, the fiscal year closes on the 30th day of November. The last day for the payment of taxes is the first Monday in December, and the settlement with the state treasurer is made on the second Monday in December. Under this condition it is absolutely impossible to close the books with the fiscal year in anything like creditable shape. Again the policy of making all taxes of the year due and payable in December works great hardship on many of our people who are hard pressed to secure money enough to carry them through the long tedious winters or provide the usual holiday comforts. It is also a hardship on our business men, who usually seek to close up their debts and accounts ready for the new year. Nor is there any advantage to the state in collecting a large sum at one time to be carried in some banking institution until required for current expenses. I would, for the foregoing reasons, urge the passage of a law providing for semi-annual payment of taxes on the first days of November and May of each year. Let one-half only of the tax become delinquent November 1, and bear the interest charged; the remaining one-half to be delinquent May 1 following; and sales of lands for all delinquent taxes to follow in June. In this

way the state will collect its money as needed. Delinquent sales will take place in June instead of the bleak winter season, and the officials can properly close their books with the fiscal year.

Arid Lands.

Some legislation is absolutely necessary to enable us to secure the benefits of the Carey arid land act. The policy of issuing scrip is, in my opinion, very unwise and unsatisfactory. The rate of interest is higher than is necessary where bonds are issued, and as I said with reference to the capitol building, bonds are preferable to scrip issues in the money markets. The present law was enacted by the legislature prior to the amendment of the Carey land act by Congress, and is defective in some respects. Something must be done to remedy and correct the errors made in the legislation, looking to the reclamation of our arid lands. I am fully convinced that the Arid Land Commission is one that if properly directed may be of vast importance to our state, but if improperly managed or controlled it may become the hotbed of unwholesome jobs to the discredit of our commonwealth. Carefully consider and enact into law the proper remedies or amendments so that the state may receive the full benefit intended by the Congressional enactment.

The Election Laws.

As far as possible the Australian ballot system should be perfected so that mistakes in voting should be reduced to the minimum. At present there may be some doubt as to the result of a ballot voted, in which the voter makes a cross in the circle at the head of the column and then places a mark opposite the name of some particular candidate in another column, even though the person so especially designated may have had no competitor or opponent in the column marked at the head by the voter. Legislation should make plain how

such votes are to be counted, if at all. We should leave no traps or snares for the unwary, but as far as possible guard against mistakes in voting and provide that method which will most clearly express the intention of each citizen who casts a conscientious ballot.

Initiative and Referendum.

Montana was one of the pioneer states in adopting the reform method of voting and inaugurating the Australian ballot system of nominations and elections. So well has this policy worked in purifying the elections of the country and in protecting the defenseless from unlawful influence that it has been adopted in some form in almost every state in the union. The time is fast approaching when we shall see other methods in force which will result in more easily recording the wishes of a majority of our people upon the statute books of the country. I refer to the initiative and referendum and proportional representation, and if this assembly shall see fit in its wisdom to submit to the voters of the state a constitutional amendement, providing for legislation in limited and modified form by means of laws or rules of conduct, recognized where the policy of the initiative and referendum is in force, such action would have my cordial support.

Before closing, however, let me urge upon you, individually and collectively, the importance of moderation in all your undertakings, cool deliberation upon every subject without discrimination, having at all times the good of our beloved state and her welfare before your minds, leaving all classes or particular interests outside of this chamber, and seeking here to serve only our jealous mistress the commonwealth of Montana, will gain for this assembly an imperishable name and redound to the lasting credit and prosperity of our young state, whose star in the galaxy of the union must never be dimmed by dishonor, but should grow brighter and more brilliant in the sisterhood of states by reason of the love of order, intelligence, public virtue, honor and patriotism of her people.

ROBERT B. SMITH.

Message in Reference to Soldier's Home.

Executive Office,

Helena, Montana, January 11, 1897.

Mr. Speaker and Gentlemen of the House of Representatives:

In preparing my message to the Legislative Assembly I intended to refer to the Soldiers Home, but in the multitude of subjects it was overlooked.

The building is complete and ready for occupancy, if it were furnished. I submit herewith an itemized bill of necessary equipment to open the Home. As soon as the Home is opened, we will receive from the general government One Hundred Dollars per capita for each soldier admitted, and those inmates who draw pensions will be required to surrender the major part of their pensions to the management to support the institution. At present, I am reliably informed, there are between twenty-five and thirty old soldiers in our county poor-houses.

If you can see your way clear to furnish the Home and make a small annual appropriation for its support, I believe your action would be generally endorsed.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Message in Reference to Estimates Fiscal Year 1897-1898.

Executive Office, Montana.

Helena, Montana, January 13, 1897.

Mr. Speaker and Gentlemen of the House of Representatives:

I transmit herewith for the consideration of your Honorable Body, estimates reported from the various departments of the State Government, covering the maintenance of the same for the fiscal year 1897, and the fiscal year 1898. These estimates are based on the allowances heretofore made for the purposes named, being in some cases diminished and in some cases increased. In my judgment conditions do not justify an increase of expenditure for the maintenance of any department of the State Government, and I therefore recommend such action on your part as will conserve the interests of economy to the fullest extent possible without impairing the efficiency of the public service. My views relative to the Bureau of Agriculture, Labor and Industry, are set forth in my first bi-ennial message to the Legislative Assembly, with suggestions as to the saving that can be affected if such views are adopted. Your attention is also called to the references made in that communication to the office of State Examiner and the offices of the Land Department. In my opinion several changes can be made in the estimates herewith submitted in the interest of economy and with due regard for the public service. The office and traveling expenses reported in the estimates for the maintenance of the office of Mine Inspector can be safely reduced from $2,053.75 per annum to $1,000; and a similar estimate for the office of Boiler Inspector from $3,114.25 per annum to $1,500. I do not favor increasing the cost of maintaining the office of State Auditor by adding to the clerical force an assistant clerk at a salary of $1,200, as indicated in the estimates reported from that department; or adding to the clerical force in the office of the Secretary of State an assistant clerk at a salary of $1,500 per annum. The estimates for the

maintenance of the State government are submitted in detail for your guidance in making necessary appropriations to cover expenses already incurred for such purposes, and as yet unpaid, and in providing for the necessary expenses of the several departments for the fiscal year 1897 and 1898. Section 2389 of the Political Code requires all fees collected by the Secretary of State and twenty per cent of all fees collected by the Clerk of the Supreme Court to be applied to a fund for the maintenance of the Law Library of the State. These fees produce in the aggregate more than $10,000 annually, and is a sum much larger than is necessary for the maintenance of the Law Library. I trust you will make such amendment to this Section as will appropriate a proper amount to the Law Library Fund, the remainder to be covered into the General Fund of the State. Estimates from the different State Institutions will be submitted at an early date, with such recommendations relative to an appropriation therefor as the condition of the finances of the State may seem to justify. In making appropriations for the maintenance of the State Government and the support of its Institutions I most earnestly recommend that they be kept within the revenue of the fiscal year to which they apply, and that such revenues be carefully estimated before the appropriation bills are drawn.

Respectfully,

ROBERT B. SMITH,

Governor.

Message in Reference to New Prison Building at Deer Lodge.

Executive Office, Montana.

Helena, Montana, January 14, 1897.

Mr. Speaker and Gentlemen of the House of Representatives:

I desire to call your attention at this time to the situation of our new prison building at Deer Lodge. It is practically completed with the exception of the doors and windows, the cells, stairways and iron grating for the openings. This new building was constructed to correspond in its dimensions and openings with the contemplated prison at Billings. There is now piled up in the prison at Billings all of the necessary cells, iron work, stairways, doors and windows that will be required to fully complete and finish the new prison building at Deer Lodge. This material has been on hand at Billings almost two years. We are paying for a watchman to take care of the property at that place. If left there it can be of no possible use to the State at this time, unless the Eastern Penitentiary is completed. I do not believe it would be expedient or economical for the State at this time to undertake the completion of the Eastern Penitentiary, or its maintenance after completion, because one prison containing all the prisoners can be kept and maintained much cheaper than if divided. If the property above enumerated remains at Billings it is liable to destruction or loss. I would therefore suggest that you pass an Act authorizing the Board of Prison Commissioners to use the property at Billings in completing the new prison building at Deer Lodge. If this is done the only cost to the State will be the cost of transporting it from Billings to Deer Lodge.

Respectfully,

ROBERT B. SMITH,

Governor.

Message in Reference to Estimates State Institutions.

Executive Office, Montana.

Helena, Montana, January 19, 1897.

Mr. Speaker and Gentlemen of the House of Representatives:

I herewith transmit the estimates made by the local boards of managers of the several educational institutions of the State, as well as of the Home for Orphans, Foundlings and Destitute Children and the State Reform School.

The estimate of the School of Mines, it seems to me, is unusually large, and should be carefully considered by you, as should all the other estimates submitted. With reference to the estimate submitted by the University, I call your attention to the fact that they have put into a lump sum $13,250 for the payment of the Faculty and janitor. It would be well to require an itemized account of this matter. In the matter of the Agricultural College at Bozeman, for the present at least it seems that the teacher of modern languages might be dispensed with; or, in other words, some one of the professors teaching other branches might also teach modern languages. And the matter of furniture should be itemized so you may know exactly what is required.

It will be absolutely impossible to make the appropriations as requested by the several Institutions, and your judgment must determine at what points the estimates may be curtailed without too seriously impairing the efficiency of the service. After the estimates which I have already submitted are acted upon by proper appropriations, you will then make the appropriations for these several Institutions, bearing in mind at all times that any appropriations made beyond the revenues of the State for that particular year, is, under our Constitution, absolutely void.

Respectfully,

ROBERT B. SMITH,

Governor.

Message Referring to Needed Legislation.

Executive Office,

Helena, Montana, February 24, 1897.

Mr. Speaker and Gentlemen of the House of Representatives:

At the opening of this session of the legislature, in view of the fact that there were no political questions to occupy your attention, and from my personal knowledge of the individuals composing this Assembly, I confidently hoped that this session of the assembly would be marked by wise, prudent and much needed legislation and that personal antagonisms and factional opinions would find no lodgment with you. I am sure this Assembly and the people at large will not censure me in failing to point out the needed legislation and reforms, necessary for the welfare of our people. If the message I delivered to you has any merit, it is because I therein plainly indicated the line of legislation needed. The manner in which it was received by the people of the state indicates beyond doubt their wishes and what they have a right to demand of you as their representatives. Of all the recommendations therein contained not one has become a law.

I therefore, without wishing to usurp the functions of this body, or the privileges and rights of your Steering Committee, appeal to you to lay aside all other aspirations except the welfare of the state. Stop talking for the next seven days and take action on some of the important measures before you. Among which I would suggest:

The Bills relating to the deposit of public funds.

The Bills relating to the regulation of state and county official salaries;

The Bill No. 233, abolishing the payment of mileage;

The Insurance Tax Bill;

The Inheritance Tax Bill;

The Bill providing for the state owning and operating the Insane Asylum;

The Bills for the erection of the State Capitol, the School of Mines and Deaf and Dumb School;

And the Arid Land Bill.

If these measures are taken up, and amended if need be, and considered without too many speeches, they may yet become laws. There are other measures of importance before your body that imperatively demand attention.

Let no one delude himself by the thought that his individual record is above criticism. You will be judged by the results of your labor as given to the people, and not by the rhetorical effort made on the floor of this House. Let me appeal to you to give to the state some of the measures of retrenchment and reform which its condition demands.

I am with very great respect,

ROBERT B. SMITH,

Governor.

Arbor Day Proclamation.

Executive Office,

Helena, Montana, April 13, 1897.

The Legislative Assembly of Montana, recognizing the fitness and necessity of encouraging among our people the proper cultivation of trees, vines, and shrubs, have set apart a day in each year to be known as Arbor Day, and have directed the Executive to make proclamation of the same.

In accordance with the authority thus vested in me and desiring to promote a sentiment among our people to beautify and adorn their homes, public grounds, places and ways and thus aid Nature to make more beautiful our splendid young Commonwealth, I, ROBERT B. SMITH, Governor of the State of Montana, do proclaim Tuesday, May the Eleventh a holiday to be known as Arbor Day, and I do earnestly recommend that said day be set apart by our people as a day for the planting of trees, vines and shrubs in the promotion of forest growth and culture and in the adornment and beautifying of our homes, cemeteries, highways and public grounds, and that it be observed by such appropriate exercises and ceremonies in the Public Schools as may tend to inculcate in the minds of the rising generation a love for the adornment and beautifying of our State.

(Seal) Given under my hand and the Great Seal of the State of Montana this 13th day of April, A. D. 1897, and of the Independence of the United States the One Hundred and Twenty-first.

By the Governor,

ROBERT B. SMITH.

Attest:

T. S. HOGAN,

Secretary of State.

Thanksgiving Proclamation.
1897.

Believing sincerely in the existence of an all powerful and all wise Providence, the giver of every good and perfect gift, and realizing that our people have enjoyed immunity from famine, pestilence, or other scourges during the past year, and that our state and its good people have enjoyed unusual harvests and are now experiencing the benefits of higher prices and more active markets, that the seasons have been almost perfect and the earth has produced in great abundance, that industry has received great encouragement and rewards, wherever employed, and believing that our condition is largely due to a wise dispensation of Providence and realizing that in our day of prosperity we are prone to forget these manifold blessings and the lesson they teach, in accordance with a beautiful and time honored custom and the law of our state, and in conformity with the proclamation of our President, I, Robert B. Smith, Governor of the State of Montana, by virtue of the law in me vested, do proclaim

THURSDAY, THE TWENTY-FIFTH DAY OF NOVEMBER

a legal holiday to be given over to prayer and thanksgiving for the blessings received from our Divine Father, and I earnestly request that all secular work be laid aside and that our people congregate in their several respective places of worship and engage in prayer and thanksgiving and other suitable exercises for the proper observance of the day.

(Seal) Given under my hand at Helena, the Capital of Montana, this November Third, in the year of our Lord, One Thousand Eight Hundred and Ninety-seven, and in the One Hundred and Twenty-second year of our Independence.

ROBERT B. SMITH,
Governor Montana.

Attest:—

T. S. HOGAN,
Secretary of State.

Arbor Day Proclamation
1898.

Complying with the statute of our commonwealth, it becomes my duty to proclaim

TUESDAY, MAY 10th, 1898, ARBOR DAY,

on which day I earnestly invoke all good and law-abiding citizens to abstain from their usual avocations and give this one day to the planting of trees, shrubs, and vines for the adornment of our public and private grounds, places, and ways.

No country can ever become a land of beauty, or the home of contentment or refined civilization, without the adornment which can so easily be given to it by trees, shrubs, and flowers. The planting of trees not only lends beauty and comfort to our homes and country, but adds value to the same, and thus in the end becomes remunerative. If our people will honestly and intelligently devote their energies toward the observance of this day for the next decade, the improvement of our state will be so marked that no further urging will be necessary.

The law enjoins upon all teachers to see that this day is properly observed by their respective schools, and provides that the Superintendent of Public Instruction shall prescribe the course of exercises and manner of instruction to be followed by the schools.

I trust that these matters will receive careful and intelligent consideration, and in order that every one may have an opportunity to properly observe this day and carry out the intent of the law, I, Robert B. Smith, Governor of the State of Montana, by virtue of the law in me vested, do Proclaim said 10th day of May, 1898, a legal holiday.

(Seal) In Witness Whereof, I have hereunto set my hand this 13th day of April, Anno Domini, 1898, and in the One Hundred and Twenty-second year of our Independence.

ROBERT B. SMITH,
Governor.

Attest:

T. S. HOGAN,
Secretary of State.

Communication to the Governor of Michigan Refusing Warrant for Arrest of Mary Stevens.

Sir: Helena, May 7, 1898.

I regret the necessity that compels me to refuse to issue a warrant for the arrest of Mary Stevens, alias Mrs. C. B. J. Stevens, and J. C. Borak, alias Holboth.

I recognize fully the comity of states and the great consideration that should be accorded to the request from the executive of any state in the union. I realize that a request from the executive of another state for the surrender of a fugitive from justice demands the most earnest consideration and a compliance therewith on my part, unless there are paramount reasons that should compel a refusal of the requisition.

In the present instance Mrs. Stevens, who now resides with her husband at Great Falls, in this state, is a respected lady and her husband is an energetic and successful man in his profession. She is charged with kidnaping Gladys Balcom, her own child by a former husband. Dr. Balcom, it is true, was given the custody of the child, but since that event I am reliably informed he has remarried, and Mrs. Stevens was refused the privilege of seeing her child. Under these circumstances she took the child and brought it home with her, where it will have a good comfortable home and a loving mother's care. The child is now happily surrounded and wishes to remain with her mother.

Under these circumstances, I do not believe it is my duty to send the mother back to Michigan to stand trial on a charge of felony. No real harm has been done and the child's condition is most likely a much happier one.

As to the other party charged, he is unknown to me, but whoever he is, he was simply aiding a mother in her distress and I am not disposed to issue a warrant for his arrest.

For the reasons above set forth I must decline to issue a warrant for the arrest and return of the parties named.

I am, Sir, with great respect,

Very truly yours,

ROBERT B. SMITH,

Governor Montana.

To His Excellency,

Hazen S. Pingree,

Governor of Michigan.

Thanksgiving Proclamation 1898.

Executive Office, Helena, Montana.

Custom and law has ordained that the last Thursday in November of each year be set aside as a day of Thanksgiving and prayer to the Divine Ruler of the universe. Anno Domini eighteen hundred and ninety-eight should be especially revered and remembered by our people and our nation. While we were called upon to send our soldiers down to war in ships and upon the high seas and upon foreign shores and strange lands, no unforeseen disaster or calamity befell them. Even the firmaments were kind and generous in their treatment of our soldiers and sailors, and, wherever we engaged the enemy, our Lord, the God of battles, seemed to be with us; and while we suffered some loss, perhaps unnecessarily, we can still with fervent hearts thank God that our loss was no greater and that peace has returned to our land, where we hope it may continue uninterruptedly. A bountiful harvest amply assures our people of the all the necessaries of life. No malignant scourge has found lodgment in our country.

In consideration of these blessings and in the hope that we may show our gratitude to the Divine Ruler, I, Robert B. Smith, Governor of the State of Montana, do proclaim Thursday, the 24th day of November, A. D., 1898, a public Holiday, and I request that all persons in the commonwealth lay aside all and singular their labors on that day and assemble in their respective places of worship and there offer up devout prayers and thanks to the great God, who rules the destinies of men and nations, for the manifold blessings vouchsafed to our people.

(Seal) Done at Helena, Montana, this 11th day of November, Anno Domini eighteen hundred and ninety-eight and in the one hundred and twenty-third year of our Independence.

By the Governor:

ROBERT B. SMITH.

T. S. HOGAN,
Secretary of State.

MESSAGE

TO THE SIXTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA.

State of Montana,
Executive Department,
Helena, January 3, 1899.

To the Sixth Legislative Assembly of the State of Montana:

It becomes my duty, under the Constitution and the law of the State, at this time to present to you the condition of our Commonwealth, especially as to what has transpired during the past two years, and what will be needed to meet the demands of the State for the ensuing two years. Before proceeding with this undertaking, I desire to congratulate you upon the auspicious condition in which we find the general tone of the State as a body politic, and the improved conditions of our people individually. Notwithstanding the fact that our country, within the last twelve months, was compelled to engage in a foreign war, which has been successfully terminated and concluded, we find that the condition of our people and the State at large has not been injured on such account. Neither has the prediction, made by many, that the Commonwealth was destined to destruction by reason of the fact that the political control had passed from the Republican party, proven true. In many respects we can truthfully say that the tone of confidence displayed toward the State two years ago has greatly improved since that time, and by wise legislation at your hands the condition of our State may yet be further improved, and with its general improvement will be an improvement of each individual composing the State.

The one thing absolutly necessary to maintain the good credit and standing of our Commonwealth before the world is to be able to meet our obligations, and pay them with cash as they are incurred. In order to do this, the revenue of the State must, at all times, be adequate to meet its imperative demands.

Financial Condition of the State.

During the last two years we have been able to meet all demands with the revenue at our command. But this result is due in part to certain legislation enacted by the Fifth Legislative Assembly, and, in part, to the economical methods pursued by the State Board of Examiners. But under the increased burdens imposed upon the State, this condition of affairs cannot longer be maintained with the present legislation.

At the close of the fiscal year in 1896, there were outstanding, warrants amounting to $366,974.57, and deficiencies, not represented by warrants, amounting to $51,237.15. To meet this indebtedness, was the revenue for 1896, yet uncollected, amounting to $286,902.76, and cash in the Treasury December 1, 1896, amounting to $21,239.38.

It thus became necessary for the present Administration to pay off and discharge the large deficiency of $51,237.15, in addition to running the expenses of the State for the next two years. During 1897 there was collected from all sources $516,-719.81, which, added to the cash on hand December 1, 1896, gave a grand total of $537,959.19.

The warrants drawn during 1897 amount to $525,520.07. During 1898 the warrants drawn aggregate $474,658.40, and the total revenue for 1898 amounted to $520,497; and during 1898 there has been paid out, on warrants and interest, $520,-494.76, leaving the cash balance on hand December 1, 1898, $2.70, but there were warrants outstanding on December 1, 1898, amounting to $337,649.21. And the total amount of deficiencies for the two years aggregates $42,270.43.

By adding together the outstanding warrants on December 1, 1896, and the deficiencies for that year, we have a grand total of indebtedness of $418,011.82. Deducting from this the cash on hand in the Treasury, $21,239.38, left a net indebted-

ness of $396,772.44 to be met by the uncollected taxes of 1898, and by adding together the outstanding warrants on December 1, 1898, and the total deficiencies, we have $379,919.64; from which subtract the cash on hand, $2.70, and we have the net indebtedness of the State, amounting to $379,916.94, which is to be paid and discharged by the uncollected taxes of 1898.

Admitting that the taxes for 1898 would not exceed those of 1896, we have, notwithstanding, gained $16,855.50 on the indebtedness of the State, besides maintaining several institutions during the past two years which were not in existence prior to 1897. But, as a matter of fact, the taxes collected for 1898 will largely exceed the tax collection for 1896, by reason of the fact that our assessment has been largely increased during the two years and the delinquent taxes are much less, so that, on the whole, there has been a very perceptible gain in the financial condition of the Commonwealth during the past two years.

I submit herewith an abstract of the condition of the general fund, during the past two years:

General Fund, 1897.

Dec. 1, 1896, cash in the hands of the Treasurer	$ 21,239	38
Transferred from School and other funds	13,075	12
Cash received during the year 1897	503,644	69
	$537,959	19
Paid out on warrants during the year	$520,918	62
Paid on interest during the year	15,340	11
Transferred to the University income fund	1,700	00
	$537,958	73
Balance cash in the hands Treasurer Dec. 1, 1897		46

Warrant Account, 1897.

Warrants outstanding December 1, 1896	$366,974	57
Warrants drawn during the year 1897	525,520	07
	$892,494	64
Warrants paid during the year	$520,918	62
Warrants outstanding Dec. 1, 1897	371,576	02

General Fund, 1898.

Dec. 1, 1898, cash in the hands of the Treasurer....		46
Received during the year	$503,471	02
Transferred from the Law Library fund.....	1,206	67
Transferred from the University Library fund....	1,267	55
Transferred from the State Examiner's fund.....	3,300	00
Transferred from the School funds.....	8,339	74
Transferred from the Soldiers' Home fund.....	2,912	02
	$520,497	46
Paid during the year on warrants.....	$505,756	21
Paid during the year, interest	14,738	55
	$520,494	76
Dec. 1, balance cash in the hands of Treasurer....	$2	70

Warrant Account, 1898.

Warrants outstanding Dec. 1, 1897.....	$371,576	02
Warrants issued during the year 1898.....	474,658	40
	$846,234	42
Warrants paid during the year	$505,756	21
Warrants cancelled during the year.....	2,829	00
	$508,585	21
Warrants outstanding Dec. 1, 1898.....	$337,649	21

This assembly, however, must not be lulled into indifference or carelessness on account of the showing thus made, for each year adds additional burdens to the State which must be met. The cost of maintaining our numerous schools, all of which have been fully inaugurated with the exception of the School of Mines, the increased numbers in our State Prison and Asylum, and in the Reform School, Orphans' Home and Soldiers' Home, all additional burdens which must be met.

We were enabled to make this showing largely by reason of the legislation enacted by the last Assembly. Two of the measures enacted by the Fifth Legislative Assembly call for particular mention at this time. The one is known as the "inheritance tax law." During 1897 the revenue for the State produced by this law amounted to only $136.56, but during 1898 the State has received as its portion of said tax the sum

of $6,912.72. This is a tax which hurts no one, and can, with all propriety, be laid and collected justly. I would call the attention of this body to the first section of that law, and ask that you amend it so as to make it more definite and certain as to its meaning and interpretation, and so that the taxes collected under it may be ascertained and collected with more certainty, and that real estate as well as personal property, descending to the direct heirs, be assessed for taxation under the law. I would, also, if possible, make it more imperative as to just what assessment or appraisement of the estate should be taken as a basis for collecting the tax, for in numerous instances in large estates I have noticed an evident desire to avoid the tax, by having an appraisement made for taxing purposes. The matter should be made so plain, definite and certain that no one could evade the payment or levy of that tax.

I desire further to call your attention to the benefits resulting from the bill passed by the last Legislative Assembly, taxing insurance companies doing business in this State. After the passage of that law and during 1897, the total amount received by the State for licenses and taxes from insurance companies amounted to $31,019.90, and during 1898 the collection from that source aggregated $41,857.42. All of this revenue has been collected and received by the State without adding one additional dollar to the general public or taxpayers of the Commonwealth.

The railroad assessment of this State was largely increased during the past two years from $10,438,231.08 in 1896, to $13,793,581.35 in 1898, or an increase of $3,255,350.27.

How to Increase the Revenue.

In order to meet the additional burdens which will be laid upon the State, I recommend for your consideration the following suggestions:

First—Amend the legislation relating to the incorporation of companies and the increase of the capital stock of any company, so that each time the capital stock of the compny is increased, such increased capital stock shall be taxed at the same rate as the original capital stock in said corporation. As

the law now is, and as it has been construed by our Supreme Court, corporations are originally organized for a very small capital and the required fee is paid. Immediately thereafter, the capital stock of the company is increased to any desired amount, by an additional cost of only $5. This defect should be remedied by legislation; and I would further provide, that each active incorporation, foreign or domestic, except insurance companies, alive and doing business in the State, should pay an annual license fee of $20 to the State as a tax.

Second—Under the present system for the assessment of bank stocks, notes and solvent credits, and for the levy and assessment of cash on hand, the attempt to make an assessment has so far proven only a farce. In 1898 only $3,035,016 was assessed as the total value of bank stocks, notes and solvent credits in the State of Montana, and only $1,080,522, the total cash assessment of the State for the same year.

In my opinion the law should be made so explicit as to the duty of the assessors in levying and assessing bank stocks, notes and solvent credits and cash on hand, that they could not avoid the responsibility imposed upon them. I believe severe penalties should be the consequence of their failure to require of each person a personal, sworn statement as to their cash, notes and solvent credits. The State and private banking corporations and co-partnerships return little or no stocks or securities of any kind. The law should impose it upon the officers of each bank to give the names of the stockholders and the interest held by each, the total amount of the stock surplus and undivided profits, and require the president or cashier to assess the whole of such stock or property for the several stockholders according to the value of the stock surplus and undivided profits. Also, each and every individual should be required, under the strictest penalties, to render an exact account of the money or cash on hand liable to assessment. And it should be made the duty of the cashier of each and every bank, if such a law can be enacted, to disclose to the assessor, upon proper interrogatories, the amount of money standing in the name of each depositor in the bank and liable to assessment, and severe penalties should be imposed upon the assessor for his failure to make such assessments, and likewise severe penalties should be imposed upon the president, cashier or other bank officer or individual failing or refusing to make

a proper assessment of the money, bank stocks, notes or solvent credits on hand.

Under the present system of taxation, the only person who bears his full share and proportion of taxes is the farmer with a few acres of land, or the citizen who owns an humble home in town or city. These people pay taxes upon the full value of their property. The corporations and the wealthy classes of our people evade taxation upon fully one-half of all they possess.

Third—The valuable franchises exercised by foreign or domestic corporations in this State, individuals or persons, should be assessed at something like their adequate value. There are several express companies doing a large and lucrative business in the State of Montana that pay taxes simply upon a horse and wagon in the several cities of the State. The different companies operating sleeping cars, refrigerator cars, or other kinds of cars for the conveyance of persons or freight, each and all exercise and have franchises that are valuable to them; these franchises should not escape taxation.

Under Section 16 of Article XII of the Constitution, it is provided that, "All property shall be assessed in the manner prescribed by law except as is otherwise provided in this Constitution. The franchises, roadways, roadbed, rails and rolling stock of all railroads operated in more than one county in the State shall be assessed by the State Board of Equalization, and the same shall be apportioned to the counties, cities, towns, townships and school districts."

Section 15 of the same Article of the Constitution prescribes the duty of the State Board of Equalization as to the adjustment and valuation of property between the several counties. and although the wording of the Constitution as to the power of the State Board of Equalization and the County Board of Equalization of each county is identically the same, the Supreme Court of this State has rendered a decision which practically destroys all the power of the State Board of Equalization, so that we are unable, in any instance, to increase or diminish the assessment made by the assessors or the County Boards of Equalization, so that the same will affect the whole State. Where the language is identically the same, I cannot understand how the County Board of Equalization has authority to increase the assessment of the county, when the State

Board of Equalization has no authority or power, under the same language, to increase the assessment of the State.

Under these circumstances, I would recommend the passage of a law authorizing the State Board of Equalization to assess all such franchises as I have above enumerated for taxation and apportion the assessment among the several counties according to the value of the franchises exercised in each county. And if it be possible for this Legislature to give effect to the Constitutional provision, by legislation, prescribing the duties of the State Board of Equalization, so that its power of adjusting and equalizing taxes will not be destroyed, then I should recommend such legislation, but if it cannot be done except by a Constitutional amendment, then the Legislature ought to provide for the submission of such an amendment at the next election. Upon this point I call your attention to the very able and exhaustive report made by our State Treasurer, as Chairman of the State Board of Equalization, and recommend it to your careful consideration, so that you may take such steps as will correct the evils therein mentioned.

Fourth—In my opinion, the mortgages upon real estate in this State, held abroad, should be the subject of taxation, and if a law is carefully prepared and adopted something similar to the law upon that subject enacted by the Legislature of the State of Oregon, I am satisfied it will not be obnoxious to any Constitutional provisions, and will be the means of levying an assessment upon a large amount of property that now wholly escapes taxation.

Reduction of Expenses.

First—In order that your legislation may be effective and that the increased revenue which we ask may not be squandered and wasted, I call your attention to several matters wherein the expenses of the State can be materially reduced, without in any way impairing the efficiency of the public service.

In my previous message to the Legislature of this State, I recommended a law cutting off and abolishing all mileage fees of sheriffs and other officers, jurors or witnesses, in the transaction of public business. Also the reduction of salaries

in some instances, and legislation along this line was attempted by the last Assembly and a bill to that effect passed both Houses, but through some connivance, it failed to reach the Executive and did not become a law.

I desire to call your attention to a few instances of the abuses to which this mileage system is reduced. During 1897 and 1898, 30 prisoners were convicted in Custer County and sent to the State Penitentiary. The Sheriff, in order to convey these prisoners to the State prison, made 28 separate trips, traveling 896 miles each time, at 10 cents per mile. During the same time 22 prisoners were convicted in Yellowstone county, and the Sheriff made 22 trips to put them in the State prison. In order to send 40 prisoners from Silver Bow County to Deer Lodge, it was necessary to make 39 trips. Each of these officers was traveling upon passes furnished by the different railroads, and they were collecting mileage from the state of Montana at the rate of 10 cents per mile, each way, for making these several trips; and what is said of these three Sheriffs is mainly true of other Sheriffs. There were a few notable exceptions to this rule, namely: The Sheriff of Beaverhead county and the Sheriff of Madison county. These latter named gentlemen waited until the expiration of the several terms of court held in their counties, and then carried all of their prisoners at one time. The Sheriff of Madison county at one time took as high as five prisoners, carrying only one guard with him, while I notice in the bills for the Sheriffs from Custer, Yellowstone, Silver Bow, and almost every other county in the State, that they made their trips every other day to the penitentiary, or just as fast as they could make one trip and return with another prisoner. These charges of transporting prisoners to the state prison during the two years, amounted to $15,612.35. The charge for transporting prisoners should be borne by the several counties as much as any other charge connected with the prosecution and conviction of criminals.

In addition to this, a law should be passed providing that in counties where they hold only four terms of court per annum, the sheriff should keep all of his prisoners in the jail till the close of each term of court, and then be required to carry them all to the prison at the same time, taking as many guards as are actually necessary for the safe keeping of the prisoners, and allowing the sheriff and his guard the actual expenses

of transportation, which should be borne by the county. Such legislation will relieve the state from a heavy burden, and at the same time relieve the counties from these exorbitant mileage charges; and what I have said with reference to mileage as to the transportation of prisoners, should also apply in the matter of transporting the insane to the asylum and the children to the state reform school; actual expenses for such work should be allowed and no more, to be paid in each and every instance by the county from whence the person is transported. And in the summoning of jurors, witnesses, and all the other work which a sheriff is called upon to perform, actual expenses should be allowed.

There is no use in allowing this mileage statute to remain upon the books, as an inducement for officers, witnesses and other persons to make public charges against the state or the county.

Second—The constitution provides that the state supreme court charges shall be paid by the state, and that one-half of the salary of the several prosecuting attorneys throughout the state shall be borne by the state, and the other half by the counties. There is no constitutional provision as to the salary of district judges; heretofore the state has borne this latter charge, amounting to $45,500 annually. I recommend that you make at least one-half of this amount a charge upon the counties, to be paid proportionately where there is more than one county in the district, according to the litigation in such district—such legislation as is now provided for the payment of court stenographers. This would relieve the state of $22,750 annual charge.

Third—Under the present law, our state warrants bear interest at the rate of six per cent per annum. They have been such an inducement to investors, during the last two years, that a premium of one per cent has practically been paid for them. I earnestly recommend that you reduce the rate of interest on state warrants to four per cent. The school fund belonging to the state will be glad to get them at that rate, and by so doing, you will relieve our general fund of an annual charge of about $5,000.

Fourth—The time has arrived in this state when the legal rate of interest upon judgments, notes and other debts should be materially reduced, and a law to this effect and providing

against usurious contracts would receive my hearty approval, and, I believe, the approval of our people generally throughout the state. The present law, as almost all laws, looks to the interest of the lender. The borrower needs more protection at your hands—the lender will protect himself.

Fifth—Two years ago, the legislative assembly made an appropriation of $6,000 per annum, for each of the two years, for public printing. This has been consumed, and a deficiency of $5,097.31 in that fund exists. Something should be done to curtail this cost of public printing. Our constitution provides for the printing of the quarterly reports made by the state treasurer. This alone costs at least $2,500 a year, when it is of practically no benefit to any one. In the same way, everything that is done by any state or county officer is required to be printed in some paper in the state or county, and frequently in more than one paper. This charge alone is an onerous burden to the commonwealth, and the law should either provide for a reduction in the advertising and printing rates, or it should provide that many of the things now required to be published might be dispensed with in the discretion of the state board of examiners. I am satisfied that this recommendation will not be popular with the press of the state, but I am impelled to take this step by reason of the fact that the public printing charge is exorbitant and out of reason for the good that it does to the commonwealth.

Sixth—Again, before leaving this head of retrenchment and the reduction of expenses, I must call your attention to the fact that legislators too often set the pace of exorbitant expenditures and appropriations by their own action. I trust, however, that your sense of duty to your constituents and to the state at large will, at all times, be sufficient to prevent any indulgence in extravagant appropriations or unnecessary expenditures in and about the transaction of your business while you are assembled here. For it is upon your work, and the character of the legislation that you may give to the state, that depends to a great degree the weal or woe of our commonwealth. The party now in the ascendency in this state may strongly intrench itself and fortify its position in the affections of our people by that wise and conservative course which will give to the state and its citizens the very best legislation possible and the most economical administration of pub-

lic affairs consistent with efficient performance of public functions.

During the legislative assembly an apportionment bill reapportioning the State for senatorial and representative districts should be passed. I trust that in such apportionment, you will reduce somewhat the membership of the lower house of the assembly. In my opinion, 60 members is the outside limit required at the present time. These, with the 24 senators required under our constitution, would give a membership of 84 in the assembly. This reduction in the number would somewhat curtail the expenses of the legislative assembly, and at the same time they would perform just as efficiently all the duties imposed upon the legislature.

State Bounty Law.

In 1897, I felt called upon to make certain recommendations with reference to the bounty upon gray wolves and coyotes. During 1896, 18,216 claims for the killing of coyotes had been filed with the secretary of state. At that time, I pointed out the impossibility of paying this bounty with the revenue then at the command of the state. This suggestion in my message was met by the statement that the coyotes of the state had been almost destroyed, and that from that time forward we would see a large reduction in the number of bounty claims for the few coyotes killed. In order, however, to produce more revenue, an additional mill and a half was imposed upon the stock interests of the state for the purpose of paying these bounties. During the past two years, it was proven, by the arrest and conviction of at least one person, and the imprisonment of two others at Bozeman, that our state bounty law was defective and that numerous frauds were being perpetrated by reason of the failure of the law to throw sufficient guards around these bounty claims. Coyote skins have been fraudulently imported from Chicago and Salt Lake, in order to secure the large bounty our state pays.

The records of the office of the secretary of state show that, during 1897, there were 22,082 coyotes, and 6,112 gray wolves killed in the state, for which bounty claims were filed. And that, during 11 months of 1898, up to and including November,

20,797 coyotes have been killed, and 5,356 wolves, to which should be added the claims that will be filed during the month of December, 1898. This will undoubtedly bring the total number up to the number given for 1897. The total cost of these claims for 1897 is $84,582, and for 11 months of 1898, $78,-459. It will thus be seen that the maximum number of coyotes killed had not been reached in 1896, as we were assured at the time was the case. The increase has been more than 4,000 per annum since that year.

I am constrained to believe that the bounty on the coyote should be reduced to one dollar, for this reason: the present revenue is not sufficient to meet the present demands. The old bounty claims, amounting to about $70,000 remain unpaid; the new bounty claims are continually increasing, and the hunters and trappers under these conditions are compelled to discount their claims. Another reason for this recommendation is, that in hunting for the gray wolf, the coyote will be destroyed almost as effectually as he is today. The same poisons and the same traps that are set for the wolf will destroy the coyote, and the hunter who is hunting for the wolf will never allow a coyote to escape if he can prevent it. In my opinion, the bounty on coyotes should be reduced to one dollar, and the bounty on gray wolves increased to five dollars. This increased price, with the assurance of a cash payment for their claims, will induce a more systematic and thorough search for these destroying pests, which will eventually result in the destruction of as many coyotes as at present, and at the same time will also relieve the bounty fund as to make it possible to meet the accrued demands; and such a law, if properly guarded with reference to gray wolves would remove the great temptation now paid as bounty upon coyote claims. Our neighboring states pay only about $1 per capita for such bounty claims, whereas we are paying $3, and the inducement to import fraudulent claims into our state and make them a public charge upon our fund is a constant menace to us, and requires a vigilance not hitherto exercised by our officials.

Reports of State Officers.

I trust you will examine carefully the reports of the secretary, treasurer, auditor, attorney general and superintendent of

public instruction. These will disclose the condition of affairs as to the several elective officers, and the thorough manner in which they have discharged their duties. It will be observed that the present treasurer has kept a much larger amount of the school fund invested than formerly, and no cash is allowed to accumulate in the general fund. It is paid out as fast as collected, and interest on state warrants is thus curtailed to a minimum. It is my earnest request and desire that during your session, you will consider carefully the reports of the several appointive state officers, for by so doing you will acquire a more accurate and thorough knowledge of the business affairs of each department of the state, and these reports are the best guarantees of the faithful performance, by each and every officer, of the duties imposed upon him by law.

I desire to call your attention particularly to the report of the register of the state land office, which is most gratifying to every one interested in that important branch of our public affairs. Mr. Moore entered upon his duties as state register in March, 1897, so that during that year he really performed but nine months' labor in his official position, but the results accomplished were gratifying and, indeed, wonderful.

I submit here a table, showing the funds received during the years 1896, 1897 and 1898 as follows:

Gross receipts of State Land Office for the year:

1896	$ 41,558.52
1897	102,886.53
1898	126,833.71

These figures indicate the magnificent results achieved by the officer of the state land office in thus so vastly increasing the revenues of the state.

The receipts for 1898 are divided as follows:

Permanent school fund	$37,739.96
School income fund	52,585.22
Permanent university fund	4,727.90
University bond fund	8,804.55
State capitol building fund	3,088.72
School of mines fund	2,147.48
Normal school fund	6,342.46
Agricultural college fund	3,044.00
Deaf and Dumb asylum fund	2,403.90

A careful perusal of this latter report will be very gratifying to each and every one of you. From the above it will be noticed that our school income fund for the past year amounts to more than $52,000. This sum for distribution among the school children equals, or is in excess of, $1 per capita for each child of school age in the state, whereas, during the eight years of our existence as a state prior to 1897, there had only been one distribution of public school funds among the children of school age, and it is now assured that the annual distribution will exceed $1 per capita.

Report of Inspector of Mines, Inspector of Boilers and State Examiner.

The report of the inspector of mines is very interesting and instructive as to this one of our greatest industries in the state. The state boiler inspector and his deputies have done their work thoroughly. These offices, together with that of state examiner, are each self-supporting. The receipts of each of these three officers, in fees, for the performance of his duty, exceeds the salary and expense of the office, and they are each revenue producers, in that respect, to the state. Too much cannot be said as to their efficiency, and the great industry and ability shown by each in the discharge of his duty.

The office of state examiner has been created for about four years. During the first two years of its existence, only six counties of the state were examined; but the present incumbent and his assistant, during their term, have examined each of the 24 counties of the state twice, making, in other words, 48 examinations of the 24 counties within less than two years. In addition to this, they have examined our state banks in the state with the possible exception of the Cruse Savings bank. Their report gives in full all the information that can be desired with reference to the operations of this office and the legislation which the examiner deems necessary for more perfect and harmonious conduct of public affairs.

I believe every boiler in the state and every working mine has been thoroughly examined by the present incumbents of the offices; a record for which they are entitled to the highest credit.

Bureau of Agriculture.

The bureau of agriculture has been presided over during the past two years by Hon. J. H. Calderhead, and his report speaks for itself. A vast amount of information, hitherto unsecured from any source, is given to the people of the state through the medium of that office, and too much cannot be said in praise of the conservative and business-like methods that have characterized the administration of the office by Mr. Calderhead.

Arid Land Commission.

Under the law passed by the Fifth legislative assembly, the arid land commission was organized by appointment of the following gentlemen: Ex-Gov. J. K. Toole, of Lewis and Clarke county; Hon. C. O. Reed, Hon. Donald Bradford, of the same county; Dr. A. H. Mitchell, of Deer Lodge county; and Hon. T. C. Marshall, of Missoula county. These gentlemen went to work in earnest for the purposes of carrying into effect the legislation enacted with reference to the reclamation of arid lands under the Carey land act. They have at least three canals surveyed in the eastern part of the state, namely: in Sweet Grass and Yellowstone counties, which, if completed, will bring under cultivation about 75,000 acres of our arid lands. A contract has been let for the construction and completion of two of these canals, reclaiming about 53,000 acres, and I am reliably informed by the commission that every indication points to the successful completion and carrying into effect of that contract. If this shall have been accomplished, that of itself will be forever a monument to the industry and energy of the present commission.

Veterinary Surgeon.

The present incumbent of the office of veterinary surgeon has undoubtedly given to the people of the state and especially to the stock-growers, the most thorough and earnest attention to his duties. He has always responded to each and

every call, even when, at times, the expenses of travel were borne by himself. The amount appropriated for the expenses of the office was inadequate to a full and complete discharge of all the duties devolving upon the officer, but Dr. Knowles has not hesitated to spend his own money in order to assist and protect the stockmen of the state against infectious and other dangerous diseases to which the stock interests of our state are subjected. The information that he has given to the stock-growers and stock-raisers of the state with reference to the treatment and protection of animals against disease is of vast and incalculable benefit, and I trust that such legislation will be enacted, and such appropriations made as will give to this officer every opportunity to thoroughly protect the stock industries of the state, for there is no industry that is more perilous or hazardous than that of stock-raising and stock-growing. They are subjected to all sorts of infectious and contagious diseases, to the destruction and ravages of gray wolves and other pests, and to the rigors at times of inclement winters. These dangers to this great industry require at our hands most vigilant and careful watching, in order to diminish, as far as possible, the loss to our stock industries.

Adjutant General.

The report of the adjutant general of the state is complete and exhaustive. It gives a full and complete roster of each and every one of our citizens that responded to the call of our country in the late Spanish-American war. It is gratifying to know that through the able and efficient management and control of the adjutant general's office of this state, Montana was the first state in the union to respond to the call of our country, by having mustered into its service a regiment of our citizens, ready to perform any duty imposed upon them by the higher officers, and in addition to the regiment of infantry thus furnished, four troops or one squadron of cavalry was also enlisted from Montana, making our total number furnished 1,366, whereas our quota called only for 524. The regiment of infantry was sent to the Philippine islands, where it is now stationed, and although seven members of that organization have succumbed to the grim reaper, it is gratifying

to know that the health, discipline and efficiency of our regiment far surpasses that of any other volunteer regiment transported to those distant lands.

The cavalry rendezvoused at Camp Thomas, or Chickamauga park, where they remained until they were mustered out in September, after the close of hostilities. I am not absolutely certain, but I believe that their total loss was only four men. This is certainly a gratifying and splendid showing for our soldier boys, and it is to be hoped that no more of them will be sacrificed until they can be returned to their homes, their friends and their country.

The cost of maintaining the militia of the state during the past two years was reduced to a minimum. The cost of mobilizing and mustering in the regiment was something over $2,700. This sum, we are assured by the government will be repaid to the state. At the present time the militia of the state consists of one battery, under command of Capt. Moore, stationed in this city. At the time of the call to arms, every company or troop organized as a part of the national guard of the state, volunteered with alarcity and responded almost to a man. The efficiency of the organization greatly aided in the rapidity with which it was mustered into the service of the United States.

STATE INSTITUTIONS.

I shall very briefly call your attention to the condition of the different public institutions of our state.

State Capitol Building

The Fifth legislative assembly passed an act repealing the act passed by the Fourth legislative assembly for the erection and construction of a State capitol building to cost $1,000,000, and in lieu thereof, provided for the erection and construction of a building at a cost not to exceed $300,000, and for the taking up and payment of the outstanding obligations of the former commission, amounting to $40,000.

A complete history of what has been done with reference to the construction of the capitol will be found in the report of the capitol building commission, which you will find upon your

desks. Suffice it to say, that under the act passed by the Fifth legislative assembly, a new commission was created, by the appointment of Hon. Elizur Beach, of Lewis and Clarke county; Hon. D. E. Folsom, of Meagher county; Hon. J. M. Fox, of Carbon county, and Hon. A. D. Peck, of Deer Lodge county, who together with the executive of the state, composed the capitol building commission.

We organized, and before proceeding further in any way to create an expense, undertook to find a purchaser for the $350,000 worth of bonds authorized by the act. Not succeeding during 1897, in January, 1898, we thought probable that if we could raise sufficient money to pay the architect his fee and commissions, that we might find some contractor who was willing to erect the building and take the bonds in payment. After due advertisement and consideration of all bids, Messrs. Bell & Kent, of Helena, were selected to prepare the plans and specifications for the new capitol building and to superintend the erection and construction of the same, at a total cost of $8,250. Before these plans had been fully perfected and completed the capitol building commission were gratified to know that one of our own citizens of the State of Montana, and of the city of Helena, Mr. Thomas Cruse, came forward and agreed to take the whole issue of the capitol building bonds at par and pay for them at such times and in such amounts as the commission might require, only charging the interest on the money advanced from time to time of its actual receipt by the commission. Having thus secured the funds and the plans and specifications for the capitol building, on the 13th day of September, 1898, we let a contract for the building of the State capitol building, at a cost of $289,821, to Joseph Soss, a citizen of Butte, with whom was associated H. L. Frank, of the same city. They immediately went to work in an energetic way, and at the present time the foundation of the capitol building is almost completed. The warrants of the old capitol commission, outstanding, were bearing 7 per cent interest. We immediately called these in and paid them off, and have issued bonds in lieu thereof, bearing 6 per cent interest. A full history of the financial transactions of the commission will be found in the report submitted for your inspection.

We are assured by the contractor that the building will be

finished and completed in May, 1900, so that the next legislative assembly, instead of being called together in the narrow, close and unhealthy quarters to which you are subjected, will be able to assemble in spacious, elegant and well ventilated rooms and buildings, and can enjoy to some extent the pleasure of our new State home.

University

The last Legislative Assembly provided for the issuance and sale of $100,000 worth of bonds, secured by the rents and profits of the lands granted to the State University, for the purpose of erecting University buildings at the city of Missoula. Under the law a commission, consisting of Hon. Alfred Cave, Joseph K. Wood, George L. Higgins, Reuben Latimer and E. A. Winstanley, were appointed for the purpose of constructing the University buildings. They adopted a wise course by reserving a part of their funds for the purpose of equipping and furnishing the University. Plans and specifications for two splendid buildings—known as the main university building and science hall—were secured and contracts let for their construction, at a total cost of about $80,000. These buildings are almost completed, and I am assured will be finished by the first of February ensuing. This leaves a fund of about $20,000 to be used in furnishing and equipping the university with the necessary apparatus, laboratory, library and other paraphernalia for the institution.

Our University has made rapid progress since it was first inaugurated, and June 8 last the first graduating class from the University received their diplomas, and upon the same day the corner stone for the future home of the University was laid with appropriate ceremonies. Too much cannot be said of the gratifying results of the school and of its economical and careful management.

Agricultural College and Normal School

Two years ago, when I had entered upon the duties to which I had recently been elected, I found that the work in the construction of the Agricultural College and the Normal

School was dragging exceedingly slow, the responsibility for which, to a large extent, rested with the State architect. He was at once removed and C. S. Haire employed as State architect. He began vigorously to crowd the contractors to complete these buildings. It is gratifying to say that both institutions have been fully completed and schools have been inaugurated in each. At the former, about 200 pupils are in attendance; at the latter, about 80, this being the second year of the Normal school.

Deaf and Dumb School

In January, 1897, the work upon the Deaf and Dumb School building, at Boulder, had practically ceased, for the reason that the contractors were unable to realize upon the warrants issued for the construction of the new building. For some cause or other, after the appointment of Mr. Haire, and the beginning of the new Administration, the warrants found a ready market and the contractors were compelled to rush the building to a completion, which has been accomplished and the school at Boulder has been fully installed in its new quarters. Under the law, as it now stands upon the statute books, the deaf, dumb, blind and feeble-minded are authorized to enter this institution. I am constrained to believe that the intermingling of the feeble-minded with the deaf, dumb and blind of our State will be a serious hindrance and drawback to the institution. Separate and distinct quarters should be provided for these unfortunates, to be controlled and managed by the same board and faculty as controls the school for the deaf and dumb, but the inmates of the two schools should not be permitted to commingle or come together, as they are under the present law.

School of Mines

The last of our educational institutions to be completed, though perhaps not the least, is the School of Mines, at Butte. For the successful completion of this building all credit is due to ex-Governor Rickards. The work upon this institution had

ceased completely prior to 1897, but after his retirement from office he immediately went to work among his fellow citizens at Butte, and procured subscriptions sufficient to take up all the necessary warrants for the completion of that building. The same has been thoroughly completed and is now ready to receive its furniture and have the school installed, but unfortunately, the funds of the State have not been sufficient to furnish or equip the building or maintain the school. It is hoped, however, that this Legislature will provide for the opening of the school at the beginning of the next school year in 1899.

By the energetic action of the register of the State Land Office, the rentals and receipts arising from the lease and sale of the lands and timber belonging to the School of Mines grant, a revenue exceeding $4,000 annually is assured. I therefore recommend to your consideration that you repeal the law authorizing the sale of bonds at 6 per cent and that you authorize the sale of bonds bearing 4 per cent interest, and, if possible, under our Constitution, you give such bonds such a guarantee as will assure purchasers the regular and punctual payment of their interest, or that you authorize the Treasurer of the State to invest the permanent school fund or enough thereof to take up such bonds, at the rate of 4 per cent per annum, the school fund receiving the benefit of the interest. This I am sure you can do without violating any Constitutional provision, for the income and revenue derived from the lands will unquestionably meet the interest of the bonds at 4 per cent. I trust this will receive your immediate and thorough consideration.

Reform School, Orphans' Home and Soldiers' Home

Upon an investigation made by a committee of the Fifth Legislative Assembly into the conduct and methods pertaining in the Reform School at Miles City, it was deemed by me necessary to the proper management and conduct of that institution to make a change in the superintendence, and in doing so, Hon. B. C. White, of Fergus County, was selected as

director of the school. This position he has maintained ever since, and his wife has been the matron of the institution. He entered upon the discharge of his duties under circumstances calculated to dishearten almost any one, but by faithful, patient and energetic work he has succeeded in restoring perfect order, confidence and discipline in the institution, and at the same time, with increased number of inmates, has reduced the cost of maintaining the school as compared with the preceding years. During the past two years a perfect and complete sewer system has been installed at this institution at a cost of something over $4,000. For this purpose only $2,500 was appropriated by the last Legislature, which at the time was known to be insufficient. The imperative necessity of having a sewer system to prevent sickness was our excuse for exceeding the appropriation given by the last Legislature, and I trust that you may see fit to affirm our action in this respect by pasing the necessary deficiency appropriation. There has also been constructed a cellar for the preservation of vegetables at this institution, at a cost of about $400. This was a necessity that we were compelled to allow and order the construction of. Upon the whole, I believe that the general tone and standing of the school, throughout the state has been materially enhanced within the past two years, and I believe that the inmates of this institution, under the management of Director White and his worthy wife, will be greatly improved and be better prepared to make good citizens of our Commonwealth.

Rev. Wylie Mountjoy was selected by the local board as superintendent of the Orphans' Home. In this institution there are about 80 inmates, the wards of the State. During the past two years, a hospital building, at a cost of about $1,800, and a school building at a cost of $3,000 have been erected for this institution. The management has been pleasant and agreeable and the appropriation made by the last Legislature was almost sufficient for the needs of the institution.

Since the adjournment of the Fifth Legislative Assembly, the Soldiers' Home of Montana has been formally opened for the reception of inmates and at the present time, I believe, about 50 of the old soldiers of the State find in this place hospitable cheer and welcome and protection in their infirmities.

The commandant, Captain Hillman, seems to be well suited for the position, and everything that can be done to make these unfortunate defenders of our country pleasant in their maturer years, is being done. The report of the Board of Managers is open to your inspection as to the appropriations and the requirements of the institution, and I ask that you give the same careful consideration.

Insane Asylum

In my message to the Fifth Legislative Assembly, I recommended that the Legislature take some action toward securing for the State a home for our insane and feeble-minded. This recommendation, through the congestion of business, failed to become a law. I have nothing but words of praise for the management of our present asylum, and believe that the persons having the same in charge are as well calculated for the duties imposed upon them as any who could possibly be selected. Their treatment is undoubtedly humane and kind and everything is done that can be done toward giving relief or perfecting a cure in these unfortunate citizens. But the policy of this State in letting out by contract the keeping of our insane and feeble-minded is one at which the mind will naturally rebel. The number of inmates, according to the last report of the Board of Commissioners of the Insane, is 457. This has been an increase of 45 during the past year. At the time I entered upon the discharge of my duties as your Executive, the cost of keeping the insane was 90 cents per capita per day. This cost, since May last, has been reduced to 65 cents per capita per day. This figure, according to my investigation, is the highest figure paid by any State west of the Missouri river. I did not make any investigation as to the institutions lying east of that stream. If this Legislature can devise a proper scheme, either for the purchase of the present quarters, or for the erection of new quarters, to be under the control and management of the State, the same will meet with my most hearty and cordial approval.

The mainstay of our present asylum, a man of great integrity and kindly chracter, Dr. A. H. Mitchell, has gone from us and we must now look to new men to manage this institution if left to private contract.

Penitentiary

During the past two years a new penitentiary building at Deer Lodge has been entirely completed and other improvements in the way of electric lights have been added to the institution. The management is now, as it has been for a number of years past, under contract to Messrs. Conley & McTague, and their conduct and management deserve the highest encomium and praise at my hands, because I believe no better suited persons could be found to control and manage the inmates of our State prison than these gentlemen. This is evidenced by the very few complaints that come to me and by the fact that there are, practically, no escapes from the institution. The prison is about as safe from fire or other disaster, as it is possible to be, and the chances of opportunities of escape are reduced to a minimum. It is kept so perfect and cleanly that we have little or no sickness or complaint of any kind coming from the inmates.

Omaha Exposition

During the year 1898 there was held at Omaha, in the State of Nebraska, a Transmississippi and International exposition, designed especially to display the resources of the States lying west of the Mississippi river. The Fifth Legislative Assembly of Montana appropriated $15,000 for the purpose of making a display of the resources of Montana at that exposition. This sum was subsequently augmented by a further personal donation of $15,000 from the Hon. Marcus Daly of Anaconda, who, in every way possible, gave to the exposition not only his money, but every encouragement and friendly act or advice possible to make of it a complete success. W. H. Sutherlin, of Meagher County, was designated by me as commissioner to take charge of the matter of securing and installing the exhibit and superintending it throughout the exposition, and it is but fair to say that in every respect Mr. Sutherlin exhibited the qualities necessary to make a successful exhibit of our resources. With the money at his disposal he procured all the space necessary for our mineral exhibit, agricultural exhibit, horticultural and forestry exhibits, and for

a display of the works of our educational institutions, and in each installed an exhibit worthy of our State. In addition to this, he erected and furnished upon the grounds a Montana building or home at a cost of about $6,000, the building alone costing about $4,000. This was sold at the close of the exposition for $850, the largest sum obtained for any State building upon the grounds, although ours was the cheapest building erected. The furniture that was not worn out and destroyed during the occupancy of the building has all been returned to Montana where it can and will be used, or the most of it, in our different State institutions. It is not boasting to say that our mineral exhibit was far superior to any other displayed at the exposition, and in our horticultural exhibit we were second only to the State of Idaho, ranking as second and securing the silver medal for our display. This was due in a large measure to the prefection of our fruit and its freedom from insect pests to destructive to horticultural interests, and if it is possible to enact laws that will prevent the introduction of any of the insects or pests that have ruined the fruit trees of older communities, it is my earnest advice that you do so at once. This can be done by forbidding the importation into our State of any fruit or fruit cases not thoroughly inspected and free from these blighting insects. Our agricultural exhibit, in the matter of small grains and grasses, was not inferior to any other display; in fact, the whole exposition was a success so far as advertising the resources of our State is concerned.

Railroad Commission

In my message to the Fifth Legislative Assembly, I suggested the advisability of creating a railroad commission for the State of Montana. That suggestion I now reiterate and confirm. The railroads traversing our State, during the past year, have responded somewhat to the popular demand and reduced the cost of local passenger travel o 4 cents per mile. This concession our people doubtless appreciate, but in many respects a commission with proper authority can be of great benefit, not alone to the people of the State, but to the railroad corporations as well. in the management and control of

the traffic, as well as the cost charges for the transportation of passengers and freight. The enlightened legislation of recent years demonstrates the practicability and the necessity of a railroad commission. Almost every State in the Union has found it necessary to enact laws creating railroad commissions, and giving them powers for the necessary discharge of the duties imposed upon them by law. I commend to your consideration the law with reference to the railroad commission and its powers as passed by the Legislature of California. I do not believe that it is necessary to impose additional burdens or offices upon the people of the State in order to create such a commission. The State officers of Montana are perhaps worked as hard as any similar officers in any commonwealth in the Union, but I believe, as far as I can judge from the temper of the people of this State, that if we should impose upon any of those officers the duties of railroad commissioners and prescribe those duties, they would cheerfully undertake and faithfully discharge the trust, without additional cost or burden to the people, but if, in your wisdom you should see fit to make such offices separate, either by appointment or election, I am satisfied that your action would meet with the approval of the citizens of our commonwealth. Trusting that you will give to this question such consideration as the importance of the subject demands, and that, if such meets with your approval, you will pass such laws as will give protection and equal and exact justice to the corporations and to our people alike.

Investment of School Funds

Our State Treasurer now has something over $200,000 of the permanent school fund of the State for investment. And although I know that the Treasurer has exercised all diligence possible to secure its investment under the present existing laws, a very large proportion of it still lies idle in his hands, for the reason that he has been unable to find such investments as the Constitution and the laws in force require.

I suggest to you the advisability of providing for its investment in the bonds of our State institutions, such for instance, as the Schools of Mines and the Deaf and Dumb School, and

other institutions under the guardianship and control of the Legislature of this State. It seems to me that as to these bonds, we ought to be willing to risk the investment of our own school funds in bonds over the control of which your authority is absolute.

If, in your wisdom, you see fit to pass a resolution, asking congress to submit a Constitutional amendment providing for the election of United States senators by direct vote of the people, such a course will have my most cordial endorsement and approval, for I am firmly convinced we cannot too soon resort to this more democratic method of electing our senators in congress.

Before closing this message to you, I desire again to reiterate what I have already said as to the necessity of keeping our appropriations strictly within the limits of the revenue at our disposal. Every effort that can be made to reduce the cost of taxation which our people bear in maintaining the State, county or city governments should be put forth by you to minimize these burdens. Extravagant legislation or appropriations should be discountenanced, and the most economical administration of public affairs consistent with efficient discharge of public duties is required, all of which I bespeak of this Assembly.

Trusting that you may at once begin the important matter of your legislative duties, so that you will not find a congested mass of undevised matters to confront you in the closing days of the session, and hoping and believing that you will give to each measure that due consideration which the importance of the subject warrants, I submit the matter to your hands, ready and willing to co-operate with you, at all times, in any effort to better the condition of our people and of our beloved commonwealth.

ROBERT B. SMITH,
Governor.

Message in Reference to Capitol Building Commission

Helena, Montana, January 25th., 1899.

Mr. Speaker and Gentlemen of the House of Representatives:

Under the present law the Capitol Building Commission can only expend $300,000.00 in building and furnishing the State Capitol. In order to secure a fire proof building of sufficient size to accommodate the needs of the State, the commission was compelled to specify imitation marble for the wainscotting in the corridors and public halls and court rooms. We have felt and still feel that our State Capitol should have a better finish and trimming. We have, therefore, had our architects make an accurate itemized bill of the extra cost of putting Utah onyx in as wainscotting in the halls, corridors and other public rooms. The separate cost for each corridor, hall and room mentioned is specified in the accompanying list. The total cost for all halls, corridors and rooms where it is desirable to use onyx trimming is $18,944.05. I would also suggest that there is no fund available sufficient to grade and beautify our Capitol grounds. The cost, according to the estimate of a competent engineer, is about $12,000.00.

I trust you will see your way clear to provide a sufficient revenue and make an appropriation to meet these items. Otherwise our building will not present that splendid appearance and artistic finish which should mark the taste, culture and refinement of our people.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Message in Reference to Cable Message From Manila

Executive Office, Helena, Montana, February, 7, 1899.

Mr. President and Gentlemen of the Senate:

Believing that you may be interested in the result of the recent battle at Manila in so far as it affects the lives of our own soldiers, I transmit herewith a copy of a cable message received this morning from Colonel Kessler, commanding the regiment.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Received at Helena, Mont., Feb. 7, 1899.

Manila 8.

Governor,

Helena:

None killed; six slightly wounded.

KESSLER,

4:29 a. m. Feb. 7.

Message in Reference to Improving General Fund of the State

Helena, Montana, February 13th, 1899.

Mr. Speaker and Gentlemen of the House of Representatives:

The Legislative Session is now rapidly drawing to a close and so far very little has been done toward improving the revenues for the General Fund of the State. The appropriations you are called upon to make should warn you of the absolute necessity of prompt and intelligent action to the end that the revenue may be increased to meet these imperative needs. I suggested in my message several methods of increasing the revenue without imposing additional taxation, also several features, wherein the expenses of the State could be reduced. If, however, these recommendations cannot be enacted into laws, I would suggest that you pass an income tax law, taxing all incomes in excess of one thousand dollars a certain per cent, say one-half of one per cent. This would produce a very considerable revenue and there is certainly no more just or equitable system of taxation than this. None are so able to pay as those who have incomes, and the larger the income the more abundantly should each good citizen be willing to contribute to the support of the State that guarantees protection to his rights both of person and property. Before it is too late you should also provide for the proper application of the thirty thousand dollars covered into the treasury on account of charges of bribery. A reasonable time should be allowed for any one desiring to prove ownership to do so, and, after the expiration of that time, if not claimed, it should revert to the State for such purposes as in your wisdom may seem fit and proper.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Message in Reference to Montana Regiment of Volunteers

Helena, Montana, February 13th, 1899.

Mr. Speaker and Gentlemen of the House of Representatives:

On the 10th of this present month the Montana Regiment of Volunteers were again called upon to do battlefor "Our Flag," and from the press reports it is shown that they bore the burdens of the fight and acquitted themselves gallantly. Twenty-four officers and men were wounded and one private killed. I trust your body will take such action as may be appropriate in public recognition of their gallant conduct.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Message—Veto of House Bill No. 22

Helena, Montana, February 16th, 1899.

Mr. Speaker and Gentlemen of the House of Representatives:

I am constrained to return without my approval House Bill No. 22, a bill appropriating $405.70 for the relief of William J. Fransham for care and attention furnished to John A. Allen, for the following reasons:

Allen was deputy sheriff of Gallatin County at the time he received the wound from which he died. He was an officer in the employ of the county, and if while in the discharge of his duty he became injured or incapacitated so that he could not provide for himself, he was, under Section 3203 of the Political Code, entitled to support and care from the county. Every obligation, both moral and legal, rests upon the county to pay this claim, or at least any just claim for the care and attention to Allen, and there is no obligation on the State to furnish such aid. Again, this bill is in direct conflict with Section 29, Article V, of the Constitution which declares: "No bill shall be passed giving an extra compensation to any public officer, servant or employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the State without previous authority of law, except as may be otherwise provided herein."

There is no pretense in this case that there was any contract of law or authority for this claim, previous to the rendition of the services, made with any one authorized to contract the indebtedness.

This claim being clearly in violation of the Constitution, and a claim that should be paid by the county, I am constrained to return this bill without my approval.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Message--Veto of House Bill No. 30

Mr. Speaker and Gentlemen of the House of Representatives:

The sole object of House Bill No. 30 is to create the office of County Auditor in fourth class counties; otherwise the law is exactly as it stands today. If the act contemplated abolishing the office in second and third class counties, I would approve the bill. Creating more offices means more taxes. I cannot lend my consent to such conditions, unless the office is imperatively demanded.

Believing as I do that fourth class counties do not need a county auditor, I must return this bill without my approval.

Very Respectfully,

ROBERT B. SMITH,

Governor.

Message—Veto of House Bill No. 132

Helena, Montana, February 28th, 1899.

Mr. Speaker and Gentlemen of the House of Representatives:

I sincerely wish it were possible for me to agree with you in the passage of House Bill No. 132. I dislike exceedingly to place my judgment and opinion in opposition to what seems to be such a unanimous judgment of this body. But in the discharge of official duty there ought to be but one guide, and that should be the constitution and the law as revealed to us by calm and unbiased study.

In my humble judgment no measure was ever presented to a legislature more fraught with evil to a people or more obnoxious to a constitution than this bill. The very reasons which actuated the introduction of this bill are dangerous to our institutions and our liberties. These reasons are as follows:

First. The Boston and Montana Copper and Silver Mining Company, a corporation of this State, in May last undertook to sell all its property to a New York corporation and compel its stockholders to accept stock in a foreign corporation in lieu of stock held in the domestic or home corporation. Suit was brought by Forrester and MacGinniss, stockholders, to prevent such conduct, and the Supreme Court of this State, on November 28th, by a unanimous opinion, sustained the plaintiffs and ordered a reconveyance of all property to the Montana Company. The lawyers and parties defeated in that case are here trying by this bill to reverse the decision of our Supreme Court, and I am told, because I happened to be one of the attorneys for Forrester and MacGinniss, that I cannot afford to veto this bill. But when I am sustained by the unanimous opinion of our Supreme Court, and by the Constitution of our State, I can and will veto any measure that is as vicious as this bill.

The second reason for the strong following and lobby behind this bill is as follows: The Rothchilds and magnates of the Standard Oil Company, according to all reports, are

now engaged in trying to form a copper trust and combine by which they expect to control the copper output of the world, and they desire to include our great copper properties in the pool. This accounts for the strong following this bill has with the coporate interests of the State. These reasons alone, without further remark, ought to be sufficient to defeat this measure before a free and independent representative body of this State.

In addition to the foregoing there are still more vital reasons for its defeat. This bill makes it possible and easy for corporations in this State to combine with any other corporation, foreign or domestic, and thus form a trust or pool. Section 20, of Article XV, of our State Constitution, reads as follows:

"No incorporation, stock company, person or association of persons in the State of Montana, shall directly or indirectly, combine to form what is known as a trust, or make any contract with any person or persons, corporations or stock company, foreign or domestic, through their stockholders, trustees, or in any manner whatever, for the purpose of fixing the price, or regulating the production of any article of commerce, or of the product of the soil, for consumption by the people. The legislative assembly shall pass laws for the enforcement thereof by adequate penalties to the extent, if necesary for that purpose, of forfeiture of their property and franchise, or in case of foreign corporations prohibiting them from carrying on business in the State."

This Bill is in direct violation of the foregoing provision of our constitution. It is not necessary that the bill should declare in its title or the body thereof that it is intended to regulate the production or the price of copper, or other article of commerce, in order to violate the provision quoted. If the bill can be used or utilized for forming a combine or trust to regulate the production of any article of commerce or production of the soil it is obnoxious to our constitution. Can any man read this measure and say it cannot be used to form copper or mining trusts or combines and thereby regulate the price or production of an article of commerce? The present great rise in the price of copper is largely due to the contemplated trust which is reported in the press of the country. Silver lead, iron, copper and every other production of our mines,

except gold, are "articles of commerce for consumption by the people," and any law tending to create trusts for controlling their production or fixing the price of their products is in violation of the constitution. Instead of passing this law to foster these trusts and combines it is your duty under the oath you have taken and under the direction of the provisions of the constitution to pass a law forbidding and prohibiting any such effort by any corporation or company.

I wish to call your attention to the difference between your body and the Colorado Asembly now in session. The smelting and mining corporations, acting under the same impulse felt in this state, contemplated a similar move in Colorado, but Governor Thomas sent to the legislature a message asking it to pass a law prohibiting such trusts and pools, and in a very short time after his message was read, one house of that body had passed a bill in accordance with his suggestions, and he wires me that their legislature is trying to prevent a smelter trust in that state, while you, on the contrary, are trying to organize a copper trust with the Standard Oil magnates in control.

This bill further violates our constitution in this: Section 2, of Article III, provides that "no ex post facto law, nor law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises or immunities, shall be passed by the legislative assembly." The relation of the corporation to the state is contractual. The charter of a domestic corporation is a contract between the state and the corporation. (See Section 3031 of Thompson on Corporations.) Likewise the relation of each stockholder to the corporation is contractual. (See Cook on Stockholders, Section 11; and Peninsular Railway Co. vs. Duncan, 28 Michigan, page 130.) The state in its constitution reserves the right to amend or alter the charter of a corporation. It may change the contract between the state and the corporation, but it cannot so change it as to impair or violate the contract which each stockholder has with the same corporation. If such change is contemplated, then such act violates the contract which each shareholder has with the corporation and such a law is void.

Again; this proposed law violates other provisions both of our state and national constitutions. Article V, of amend-

ments to the Constitution of the United States, says: "Nor shall private property be taken for public use without just compensation," and Section 14, of Article III, of our State Constitution, says, "private property shall not be taken or damaged for public use without compensation having been first made to, or paid into court for, the owner." You will notice that in these provisions the taking of private property for a public use is allowed under certain conditions, and the converse of this proposition is true, viz., that private property cannot be taken for a private use under any condition. Indeed, so careful were the framers of our constitution, that, in order to run a ditch or canal over the land of another, such a use is declared to be a public use. (See Section 15, Article III, of our constitution.)

This bill provides that if any stockholder dissents from the action of the majority in combining with any other corporation or trading for the stock of another corporation, a commission is appointed to appraise the value of his stock, which is his individual property, and sell it out at public auction or to the grantee of the corporation, thus taking private property and confiscating it for private purposes.

The title of this bill is deceptive. It is contended that the bill is to enable the majority stockholders to control the property and to sell or lease it, and to protect the minority stockholders. The majority stockholders, under our present law, can sell, lease, mortgage or dispose of all mining property. (See Section 1013 of the Civil Code of Montana.) Under the present law, after notice duly given, if three-fourths of all shares are represented at the meeting and two-thirds of all shares vote in favor of a sale, such sale is valid and effectual, and in the same way all the property or any part can be leased, sold, or mortgaged and the minority cannot prevent it. The only thing a minority can prevent according to the decision of our Supreme Court, is this: a dissenting stockholder can prevent a domestic corporation from trading its stock off and accepting in payment therefor stock in a foreign corporation. That was what the Boston and Montana Company attempted to do and that is what this bill will allow all corporations to do.

This is an effort to get out from under the jurisdiction of our state courts so that corporations can carry every case

into the United States courts, with the result that if a miner or employe has a claim against them he cannot sue in the state court. In our state court two-thirds of a jury can agree and find a verdict but in the United States court a unanimous verdict is required. It is much easier for corporations to defeat a case where they have only to secure one juror to prevent a verdict against them. Again, a poor man cannot afford to litigate in the United States courts. It requires more money and much longer time to secure final judgment. If you pass this bill you will put it in the power of rich corporations to defeat any claims against them without any great expense. You will remove all their records from the state to the great injury of litigants and of the taxing power of the state.

It is claimed by some that this bill will tend to develop our country. I say that its tendency will be to prevent development except by a few gigantic concerns. Under the present law the poor miner or prospector organizes a company and puts a portion of his stock in the treasury and peddles it out to friends in small lots, and thus gets money to develop his mine. But if this bill becomes a law, no man will care to buy stock, unless he can have over one-third, because, if he has less, the others may compel him to sell out his stock or swap it for stock in some foreign corporation, and thus freeze him out if he objects.

There is another serious objection to this bill. Section 1 provides that a notice giving in general terms what is supposed to be done shall be published for thirty days, and a copy mailed to each stockholder calling a meeting of stockholders. But when the stockholders meet they can propose any kind of disposition of the property; they are not confined to the published notice. Suppose, for instance, the notice sent out and published shall propose a lease of the property; but when they meet, if, instead of leasing, they propose to sell or trade off the capital stock for stock in another corporation—they can do so under this act. The stockholders receiving a notice that it is proposed to lease the property might be willing to lease and pay no further attention and not attend the meeting. Those who did attend could disregard the notice and propose a sale, for the bill says that after electing a chairman and secretary, thereupon any proposition for the sale or lease,

or mortgage, or exchange, or disposition for other property, or for the whole or a part of the capital stock of any other corporation, domestic or foreign, or to otherwise dispose of the whole or any part of the mining ground, mills, smelters, or assets of any description..... may be considered and acted upon at said meeting. You will observe they are not confined to the proposition made in their notice sent out to each stockholder. Any act thus done at such meeting, no word or intimation of which was put in the published notice, may be carried through as effectually as if full notice had been given. An absent stockholder is not afterwards notified of what was done at such meeting, although it may have been against his wish; yet he must come within twenty days and dissent in writing from what was done ,or he is deemed to have assented. But the advocates of this bill say the secretary has to file a statement of what was done at the meeting with the county clerk and recorder. Yes, that is true, but when does he have to file it? So far as this act is concerned, he may not have to file his certificate with the county clerk and recorder for a year, but the poor deluded stockholder must make his objection within twenty days or forever hold his peace. Let me again appeal to you to consider what you are doing.

The haste with which this measure has been railroaded through both houses ought to be a warning that "something is rotten in Denmark." It has been rushed through under whip and spur and every corporate lobbyist is at its back. Even our national holiday, set apart for the observance by our people of the anniversary of the birth of the immortal Washington, was desecrated by the passage of this bill. That day which recalls the patriotism and devotion of Washington to the cause of his country was not a fitting day on which to pass a bill destined to serve the selfish interests of corporations and put a yoke upon our people more galling than Egyptian bondage.

I had hoped the people of Montana might be spared, at least for many years the power of the Standard Oil magnates. They control already the lamplights of America and, by controlling the production of copper, they propose to control the electric lights of the world, as well as the electric power and the thousand other uses to which copper is applied. If they could, they would obscure the God of day and deny us daylight.

If you do not assert your manhood and independence now and defeat this measure, it will be too late when the tentacles of this octopus have fastened their fangs on the strong limbs of this fair young commonwealth. Seeing as I do the dangers in this bill, and knowing full well how vicious and unconstitutional it is, and knowing that many of you are deceived by the fair phrases in its caption, I write you thus at length to warn you of the dangers where you stand.

Instead of being entitled an act to regulate, mortgage, sell, lease or convey corporate property and protect the minority stockholders, it should be entitled "An act to reverse the supreme court and to encourage and facilitate the formation of trusts and combines, and to legalize the confiscation of private property for private uses in the State of Montana."

For the reasons set forth in this message, I must refuse to give this bill my approval.

Very Respectfully,

ROBERT B. SMITH,

Governor.

The communications received were placed on file and ordered spread at length on the Journal of the House.

Mr. Speaker then announced that the question before the House was, shall the bill pass notwithstanding the Governor's veto?

On motion of Matts, seconded by ten members, a call of the House was ordered.

The roll was called and Fine was absent.

On motion of Cooney, further proceedings under the call were dispensed with.

The roll was called and House Bill 132 passed by the following vote:

Ayes 52, noes 18, absent none.

Ayes—Black, Bonner, Boylan, Burke, Bywater, Clifford, Cooney, Crutchfield, Fine, Finlen, Fitzpatrick, Flinn, Gallwey, Garr, Gillette, Hedges, Ingersoll, Jacqueth, Johnson, Kelley of Cascade, Kelly of Silver Bow, Kuphal, Lamb, Lewis, Lindsay, Lockhart, Long, Madden, Magee, Marcyes, Martin, Matts, Metlen, Moran, Murray, Normoyle, O'Brien, Potting, Sands, Stapleton, Stephens, Stone, Sullivan, Sweeney, Swindlehurst, Toole, Truscott, Warren, Watson, Wilson, Woods, Mr. Speaker—52.

Noes—Beasley, Bennett, Conrow, Day, Eversole Gibson, Hill, Hutchinson, Losekamp, Luddy, McLaughlin, McLeod, More, Parker, Paul, Phelps, Shovlin, Walsh—18

Message—Veto of House Bill No. 124

Mr. Speaker and Gentlemen of the House of Representatives:

House Bill No. 124 is the hand maiden of House Bill 132. Both are being engineered by the same parties and both are intended for the same purpose, and that is to give the wealthy and strong undue advantage over the weaker.

If this bill only gave a right of appeal from a final judgment, or from an order granting or refusing to grant a new trial, or granting or dissolving an injunction, or refusing to grant or dissolve an injunction, or granting or dissolving or refusing to dissolve an attachment, or from an order appointing or refusing to appoint a receiver, I would sign it willingly. But what follows after that is the objectionable part, viz., "or giving directions with respect to a receivership." If this measure becomes a law, it practically repeals the authority of the district court to control property in its hands.

A receiver is the agent and officer of the court and he acts under the instruction and direction of the court and gives bond for the faithful performance of his duty and the protection of all parties interested. But if this bill becomes a law the district court cannot order the receiver to take charge of the property ,or collect debts, or compel an accounting, or pay out any money or hire any person to do any work for the property in his charge or pay taxes on the property. In fact no order or direction can be given by the court to the receiver without the same can be appealed from and the case brought to the Supreme Court, and the whole matter stayed until the Supreme Court can hear it. The passage of this law would destroy the efficacy of a receiver in any case and would entail endless litigation, to such an extent that none but wealthy people could afford to go to court to maintain their rights..

The old law of appeal has been sufficient to suit all lawyers and litigants in this state for over thirty years, and no one found fault until the Boston and Montana Company were defeated in the Supreme Court, and now they must reverse it by an act of the legislature. Lawyers and parties who come to you to reverse the Supreme Court should be turned out of

the doors of the assembly. It is an unfair way to try lawsuits, and if you countenance such procedure, every litigant defeated in the court will seek redress in the Igislature.

For these reasons I cannot give my assent to the passage of this act.

Very Respectfully,

ROBERT B. SMITH,

Governor.

The communication received was placed on file and ordered spread at length on the Journal of the House.

Mr. Speaker then announced that the question before the House was, shall the bill pass notwithstanding the veto of the Governor?

On motion of Cooney, seconded by ten members, a call of the House was ordered.

The roll was called and on motion of Cooney further proceedings under the call were dispensed with.

The roll was called and House Bill No. 124 was passed by the following vote:

Ayes 49, noes 21, absent none.

Ayes—Bonner, Boylan, Burke, Bywater, Clifford, Cooney, Crutchfield, Day, Fine, Finlen, Fitzpatrick, Flinn, Gallwey, Gibson, Gillette, Hedges, Hill, Hutchinson, Ingersoll, Jacqueth, Kelley of Cascade, Kelly of Silver Bow, Kuphal, Lamb, Lewis, Lindsay, Long, Madden, Magee, Marcyes, Martin, Matts, Murray, Normoyle O'Brien, Potting, Sands, Stapleton, Stephens, Stone, Sullivan, Sweeney, Swindlehurst, Toole, Truscott, Warren,, Watson, Wilson, Mr. Speaker—49.

Noes—Beasley, Bennett, Black, Conrow, Eversole, Garr, Johnson, Lockhart, Losekamp, Luddy, McLaughlin, McLeod, Metlen, Moran, More, Parker, Paul, Phelps, Shovlin, Walsh, Woods—21.

Arbor Day Proclamation

Executive Office,

Helena, Montana, April 13, 1899.

As winter disappears and the earth puts on its summer robes of grass and flowers, the season reminds us that it is our duty to ourselves and to posterity that we shall as far as in our power lies assist nature to make more beautiful our homes, public grounds, and ways. The cultivation of trees, vines, and shrubs tends to enrich our soil and keep it moist, and at the same time it relieves the landscape from the glare of the summer's sun. In addition to the advantages thus given to the physical aspect of the state, a higher sense of the artistic and beautiful is thus begotten in our people and that proper spirit of pride in our houses and cities and our state is encouraged and fostered.

The Legislative Assembly recognizing these blessings and benefits, set aside a day to be known as Arbor Day and directed the Executive to make proclamation of the same.

NOW, THEREFORE, I, Robert B. Smith, Governor of the state of Montana, by virtue of the law in me vested, do hereby proclaim Tuesday, the ninth day of May, A. D., 1899, Arbor Day, and declare the same to be a legal Holiday and request that all persons in the state devote a part of that day to the planting of trees, vines, or shrubs upon their lands, public grounds and ways, for the purpose of beautifying them and serving the interests of our state and people.

Done at Helena, the Capital of said State, A. D., 1899, and the one hundred and twenty-third year of our Independence.

(SEAL) ROBERT B. SMITH,

Governor.

By the Governor—

T. S. HOGAN,

Secretary of State.

Correspondence Relating to Coeur d'Alene Trouble in May, 1899

I think it best to note here that press misrepresentations regarding this expedition into Montana under Lieutenant Lyon made necessary the following correspondence between the Governor of Montana and myself, viz:

Helena, Montana, May 12, 1899.

GENERAL MERRIAM,

Commanding U. S. Troops, Wardner, Idaho.

SIR: I notice through the medium of the press a statement that you ordered Lieut. Lyon having prisoners at Missoula to take them at once to Idaho and pay no attention to orders of any one else than the commanding officer. May I ask if you were correctly reported in this respect? In these troubles the civil authorities of Montana have been willing to aid the proper authorities in the arrest of fugitives from Idaho and have done all that was asked of them. But we must understand that no part of Montana is acting under martial law.

While I am willing to give all proper and legal aid to the officers of Idaho or U. S. soldiers in the arrest of criminals, it must not be assumed that the civil authorities of this state will silently permit even federal troops to disregard the civil law or the process of civil authorities. I am a firm believer in the doctrine that the military must always be subservient to the civil authorities. Trusting that you were misquoted in the press dispatches and that you did not intend to disregard the civil authorities, I am,

Very Respectfully,

ROBERT B. SMITH,

Governor.

Wardner, Idaho, May 15, 1899.

To His Excellency,

The Governor of Montana.

Sir: Acknowledging your letter dated May 12th, I beg to hand you herewith the telegrams containing the orders and instructions under which Lieut. Lyon, 24th Infantry, acted

during his recent trip into your State, accompanying detachments of deputy sheriffs from the state of Idaho.

Lieut. Lyon reports exact compliance with his orders and instructions and I hope you will be convinced that every precaution has been taken to avoid the slightest discourtesy towards the civil authorities of Montana in our effort to do what was possible and legal to assist the Executive of Idaho in his efforts to arrest escaping criminals. With assurance of highest respect,

Your Obedient Servant,

H. C. MERRIAM,

Brig. Gen. U. S. A.

Helena, Montana, May 17, 1899.

General H. C. Merriam,

Wardner, Idaho.

Sir: Your letter of the 15th inst with enclosures (copies of telegrams sent Lieut. Lyon) is received this a. m.

I am pleased to see that you were entirely misrepresented in the statements made in the press. Your letter with copies of telegrams discloses that at all times you recognized the proper civil authorities. In this I applaud your action; for while at times the civil authorities may need the aid of the military, I do not believe it consistent with the spirit of our laws or institutions of our country to supplant the civil with military or martial authority, except in extreme instances. I am with very great respect,

Very truly yours,

ROBERT B. SMITH,

Governor.

Correspondence in Reference to Commutation of Sentence of Joseph Allen

Executive Office,
Helena, Montana, September 5, 1899.

Judge J. M. Clements.
Helena, Montana.

Dear Sir: In the matter of the application of Joseph Allen for commutation of sentence I have made a most careful and diligent study of the evidence and every fact submitted to the court or jury or subsequently submitted to me.

I entered upon the investigation biased in favor of commuting the sentence on the theory that as no one but Allen saw the killing perhaps his story might be true, and I was very much disposed to give him the benefit of the doubt; but a close and careful study of the case convinces me that the jury were certainly justified in finding the verdict they rendered, and the court has pronounced the law of the case. Being thus constrained rather against my inclination to consent that the verdict and sentence are justified by the facts, a discharge of my public trust impels me to refuse to interfere with the sentence of the court, although importuned to do so by many good Christian people whom I respect most sincerely for their sympathetic interest in this unfortunate young man.

Assuring you of the most sincere regards and of earnest energetic interest shown to your client, I am,

Very Respectfully,
ROBERT B. SMITH,
Governor.

Thanksgiving Proclamation

Executive Office, Helena, Montana.

A beautiful custom of this country that by its age has almost attained the dignity of law requires that at least one day in each year be devoted to prayer and thanksgiving to Almighty God who watches over destinies of nations and of men. There is a hallowed memory that always attends the return of this day to the elder people and a joyous holiday for the children. On this day we are prone to recall our own childhood with all its sweet recollections, as we gathered around the table spread with all the delicacies the home could afford.

The people of Montana have much for which they should be thankful. Notwithstanding the seasons were somewhat irregular, the earth has produced bounteously and our herds and flocks have been mostly spared to us. The treasures of the earth continue in ever increasing quantities. Our people have enjoyed good health, and those whom we sent away to war and who were absent from us on last Thanksgiving Day, with few exceptions have been returned to their homes and our state in good health. For these and manifold other blesings, we should be thankful to the Divine Creator that holds us in the hollow of his hand.

The President of the United States has designated Thursday, the thirtieth day of November, A. D., 1899, as a day of prayer and thanksgiving, and in conformity therewith, I, Robert B. Smith, Governor of the State of Montana, request that each and every person and all people in our commonwealth on said day desist from their regular work and employment as far as possible, and, assembling together in their respective places of worship engage in reading the word of God and in prayers and thanksgiving.

In order to enable all to take part as far as possible I do declare and proclaim said thirtieth day of November a legal holiday.

Given under my hand at Helena, the Capital, on this 6th day of November, in the year of our Lord eighteen hundred and ninety-nine and in the one hundred and twenty-fourth year of our Independence.

(Seal) ROBERT B. SMITH,
Governor.

By the Governor—
T. S. HOGAN,
Secretary of State.

Correspondence in Reference to Application of Joseph Hurst for Executive Clemency

Executive Office,

Helena, Montana, March 28th, 1900.

To the Honorables G. W. Myers, H. J. Haskell and C. P. Connolly:

Gentlemen: In the matter of the application of Joseph Hurst for executive clemency, I will say that I have given to the case eight days of hard and constant labor in trying to arrive at the facts. I have read all the evidence adduced before the Coroner's Inquest; before the Examining Court and on the final trial; also the evidence submitted since that time.

Before entering into a discussion of the facts of this case I desire to express in unqualified terms my disapproval of the methods resorted to in this case for the purpose of inflaming public opinion. The sensational article published in the "Standard" over Mr. Connolly's signature is almost wholly without foundation; if you will take out of that statement the fact that Joseph Hurst was tried and convicted in Dawson County you will remove from it almost every particle of truth it contained. During the trial before me I asked Mr. Connolly to give me some evidence of the truth of the charges he had made in the paper; this he wholly failed to do. While as a matter of fact the showing discloses this condition of affairs: Dominick Cavanaugh, the sheriff of Dawson county, was murdered by some assassin about 8:25 or 8:30 o'clock p. m., on December 23rd, 1898; his body was not discovered until the next morning. A Coroner's jury composed of six men, all neighbors and friends of Joseph C. Hurst, after carefully investigating all the evidence they could find were the first persons to make any charge against him by bringing in their verdict as they did. Mr. Hurst was thereupon arrested and tried before the Justices of the peace who bound him over to the District Court where he was tried by a jury of twelve men of the citizens of Dawson County not one of these men came from

the town of Glendive but they were selected from the ranchers and farmers in the thinly settled portions of the county; eleven men out of the twelve were the friends and political supporters of Mr. Hurst the other one was a Democrat and supported Mr. Cavanaugh. This is sworn to by the affidavits of some of the jurors. So well were Mr. Hurst and all his friends and attorneys satisfied with the jury that no effort was made whatever to get a change of venue, in fact, they refused and failed to exercise the challenges which the law gave them. They were entirely satisfied with the jury as selected. There was no brother-in-law of the murdered man on the jury as charged in Mr. Connolly's article. There has been presented to me no statement of any kind showing any enmity, passion or prejudice against Joseph C. Hurst. The community was excited and rightly so over the cold blooded murder of Sheriff Cavanaugh, but it was not a prejudice or passion against the defendant in any way so far as I am able to determine. Mr. Hurst when arrested and put in jail had every privilege accorded to any man charged with a public offense. His lawyers and friends were at all times permitted to consult with him and prepare his case for trial, in fact, nothing was denied to him, and the article in the "Standard" charging such conduct upon the officers of Dawson County was absolutely false in every respect. Neither is there anything in the whole record showing that the Court was prejudiced, on the other hand there is much in the record to convince any man that Judge Loud was favorable at all times to the defendant, Hurst, in fact, he allowed the attorneys for Hurst more privileges than is usually allowed to defendants in any criminal case that I have witnessed. His charges to the jury and the whole conduct of the trial was so fair as it was possible. The three lawyers who prosecuted Hurst were his political friends. Under such circumstances it is impossible to believe there was any political prejudice against him. Making these sensational and unwarranted charges through the press for the purpose of influencing either judicial or executive action in any matter which is to come before either branch of the State for official action is unjustifiable and more so when by an attorney-at-law. Seventy-seven petitions with about five thousand names have been presented to me; forty of these petitions are from Silver Bow County; seven from Missoula; five from Anaconda; and only one or two are

from other points in the state. All are based upon this article that appeared in the "Standard" without any real knowledge of the facts of the case. I have said this much for the purpose as far as possible of doing justice to the court, the jury and the community in which Mr. Hurst was tried. I am absolutely certain that while I disapprove of such methods I would not permit them to bias or warp my judgment in any respect. The constitution of the state divides the business of the state into three departments: the legislative, the judicial and the executive. The legislative department declares and prescribes what the law shall be for all offenses and matters; the judicial department is charged with the duty of construing and administering the law, and the executive department with seeing that the law is enforced and discharging such ministerial or quasi functions as may be vested in the executive. The legislative power of the state has prescribed the death penalty as the punishment to be inflicted for the crime of murder in the first degree. If this penalty is not right and the people are dissatisfied with it, they should appeal to the legislature to change it. As a part of the judicial system of our country the constitution and the law declares that a jury of twelve men, peers of the offender, shall try any and all offences amounting to felony where the plea is not guilty. Section 3440 of the Code of Civil Procedure declares "That all questions of fact, where the trial is by jury are to be decided by the jury, and all evidence thereon is to be addressed to them." Section 3390 of the same code declares: "The jury subject to the control of the court in the cases specified in this code are the judges of the effect or value of the evidence addressed to them." Section 3123 of the same code is as follows: "A witness is presumed to speak the truth. This presumption however may be repelled by the manner in which he testifies, by the character of his testimony, or by evidence affecting his character for truth, honesty or integrity, or his motives, or by contradictory evidence, and the jury are the exclusive judges of his credibility." It will be seen by the above quotations that the jury provided by law are the exclusive judges of the facts in any case of the credibility of the witnesses and the evidence adduced before them. In this case there is considerable conflict of evidence, not more, however, than in many other cases of similar import. A jury that was entirely satisfactory to the

defendant had all the witnesses before them on the trial; they saw these witnesses face to face; they heard their story and after having fully considered all the facts twelve men said upon their oath that they were satisfied beyond a reasonable doubt that Joseph Hurst was guilty of the murder of Dominick Cavanaugh. The trial judge who was Mr. Hurst's friend, saw all these witnesses; heard their story upon the witness stand. He is an acute lawyer and able to detect any falsehood there might have been in the evidence. After the jury had returned their verdict upon a motion for a new trial whereby the trial judge had a perfect right to review all the testimony and if it was not entirely satisfactory to him, it was his duty, under the law, to grant the defendant, Hurst a new trial. By overruling this motion for a new trial the Judge of the District Court expressed his entire satisfaction with the verdict. I cannot be forced into the belief that Judge Loud would sentence any man to be hanged unless he was thoroughly satisfied with the verdict rendered by a jury in his court. After the motion for a new trial had been overruled the case was appealed to the Supreme Court of the State where three able, industrious and conscientious men passed upon the record presented to them, and while it is true that the Supreme Court as a rule will not interfere with the verdict of a jury upon a question of fact, yet, whenever the evidence is too slight in the estimation of the Supreme Court to justify the judgment rendered in the case is and has been reversed on more than one occasion by our own Court and sent back for a new trial.

See Ormund vs. Granite Mountain Mining Co., 11 Mont. 303, and cases there cited.

At this point I cannot refrain from quoting from the opinion of the Supreme Court in the case of the State vs. Hurst, found in 59 Pacific Reporter, page 913, as follows: "We have given our attention carefully and patiently to the examination of the whole of the evidence and we cannot say that the result reached by the jury is not justified by it, or that there is upon the whole of the evidence a reasonable doubt of the defendant's guilt." Here the Supreme Court of the state say that they have carefully and patiently examined all of the evidence and that they find that the verdict of the jury was justifiable by the evidence, nor are these men able to say that the evidence did not prove the defendant guilty beyond a reasonable doubt. The case is

now submitted to me for pardon, a commutation or reprieve upon the same identical facts submitted to the jury; the trial judge and the Supreme Court. Sixteen fair, impartial and unbiased men, four of them occupying the highest judicial positions in our State, are satisfied with this evidence and say that it was sufficient to sustain a judgment and sentence of death. These men and this jury are prescribed by the law as the persons and the tribunals that shall determine these facts as well as the credibility of the witnesses. I am now asked, without bringing forward any new facts or any new evidence which was not susceptible of introduction on the trial, to reverse the findings of these sixteen men and pardon the petitioner. While the law vests in the executive the power to pardon and extend executive clemency, I believe, such power should be exercised only in a legal way and not arbitrarily. If I allowd sympathy or my own personal feelings to control my actions in the exercise of the pardoning power there would be no necessity for the courts or juries, nor if I am called upon again to try a case upon the same facts on which the jury have acted would I be warranted in exercising arbitrarily the pardoning power. Such exercise of power would be legal and judicial anarchy.

The whole case made by the petitioner and his counsel is an attack upon the witness Gilmore. I have read his evidence through the different trials at which he was called to testify and while there may be some slight contradictions, upon the whole the story stands unshaken from the first to the last. He gave such a minute and perfect description of the man he saw following Cavanaugh only a few minutes before his death that it was impossible to escape the conclusion as to who it was. It is true he says that for some time he tried to evade giving any information which would lead to an accusation against Hurst, but he explains his evasion on the final trial by saying that Hurst was his friend and that he did not want to divulge the facts he knew so as to implicate Hurst, but the evidence submitted to me clearly demonstrates that on the day after the murder of Cavanaugh, Gilmore speaking privately to two of his friends, told them that the man he saw following Cavanaugh through the alley was Joseph C. Hurst. Undoubtedly the offense was committed at or about the hour from 8:25 to 8:30 in the evening; Cavanaugh left the post office at 8:24; he had gone not more than 25 steps before he passed the witness Gil-

more who had just finished unloading a load of wood; it was a bright moonlight night; he passed within nine feet of Gilmore going in the direction of the point where he was murdered; about thirty five feet behind him followed a man considerably taller than Cavanaugh, weighing about 165 pounds who bent his body forward as he walked; had a long body; peaked features with a hooked or Roman nose; a light mustache; he walked rather on his heels, was a pigeon toed person and lifted his toes a little higher than the usual person in walking; he had on a sack coat; the collar buttoned up close around his neck; he had on a hat; he was walking a little bit faster than Cavanaugh and following directly after him and passed within nine feet of the witness Gilmore who swears that he observed him carefully while he was walking the distance of fifty or sixty feet. Gilmore swears positively that he could see him then as clearly as he saw Hurst on the day of the trial, and that the person following Cavanaugh was none other than Hurst. Within the space of two or three minutes Mrs. Steele and her husband went down this alley about two hundred feet, and within about fifteen or twenty feet of Cavanaugh's barn and the spot where his body was found she saw two men standing, one of them she took to be Mr. Cavanaugh, the other a man considerably taller; these men started towards the Cavanaugh barn only fifteen or twenty feet away, the shorter man in front and the taller man behind, only about one step, at this moment she passed into the house and out of sight; this was at 8:25 o'clock when she entered the house by her timepiece. Dr. Hunt swears that sometime between 8:25 and 8:35 after he had just arrived from the drug store he was writing a prescription and heard noises like a muffled voice or expulsive sounds mingled with other noises right in the neighborhood of Cavanaugh's barn which was distant only about seventy-five or one hundred feet. The Myers Brothers swear that just about 8:30 o'clock they were in the north end of the alley leading from Cavanaugh's barn; they were going along the street, crossing the end of the alley heard some kind of a holler like a person hollering with the hand over his mouth; this they heard twice within a second of time; they looked up the alley in the direction of Cavanaugh's barn and saw a man within about ten or fifteen feet of the barn walking rapidly out of and across the end of the alley; he was leaning somewhat for-

ward as he walked; they paid no further attention and went on. The next morning Cavanaugh's body was found at this spot in the alley near his barn with a pair of cuff buttons and a book which he had gotten up town only a few minutes before he was killed. In my opinion the time between when Mrs. Steele saw the two men standing in the alley and the time when Dr. Hunt heard the noise and when the Myers boys heard the noise and saw one man leaving the alley couldn't have exceeded more than four or five minutes; and the time between which Gilmore saw some man following Cavanaugh and the time when Mrs. Steele saw them standing in the alley couldn't have exceeded three minutes; it is perfectly clear then that whoever followed Cavanaugh down the alley at about 8:24 or 8:25 was the same person that killed him, for it would have been impossible for that person who followed him to have gotten off of the scene and some other person to have come upon the scene and kill Cavanaugh within the short time without being seen by some one. The whole thing then resolves itself into the identity of Hurst. This identity the jury say has been fixed upon him beyond a reasonable doubt, and they are the judges of the facts and the credibility of the witnesses, and the courts have expressed themselves as satisfied with that finding.

Again there are other facts tending to fasten this crime upon Hurst; witnesses went upon the stand and testified to threats made by him against Cavanaugh which he did not deny; he was examined before the coroner's jury and before the examining court; his story on the two occasions differ in material points; he seems to be unable to account for his whereabouts at the critical moment. Again the description which Gilmore gave was so minute in every particular that if it had not fitted Hurst that fact certainly would have been shown on the trial. On the next day when he was informed of the murder of Cavanaugh he made no effort to inquire into it or to go near the scene of the murder, or the coroner's inquest; these are peculiar circumstances when we consider that the murder occurred in a small town like Glendive. Certain clothing was found in Hurst's house which belonged to him having blood stains upon it; while it is true that this is only a slight circumstance, yet, there is no attempt on the part of the defense to explain it. Counsel for Hurst now claim that the reason why they did not put him on the stand was because they thought there had been

no case made against him. The true reason, however, is to be found in a letter written by Hon. G. W. Myers to Mr. C. P. Connolly. Among other things in that letter Mr. Myers says: "I do not believe Hurst could have been safely put on the witness stand in his own behalf owing to the number of people who would have contradicted him as was explained to you by General Haskell while you were at Glendive: Now as to why Hurst's good character was not put in evidence, under the feeling existing at the time of the trial it would not do, while we could find a number of people that would swear they knew Hurst for a number of years and that he had a good reputation for honesty and industry but we learned upon investigation that there was a number of leading citizens that would say that his reputation was bad, so we rested that point on the fact that he had been nominated for the office of sheriff." This letter gives the true and exact reasons, no doubt, why Hurst was not put upon the witness stand. This letter is among the papers filed with me by Mr. Connolly.

An attempt was made on the trial to impeach the evidence of Gilmore, in this there was a failure, I apprehend.

Witnesses differ as to the color or the kind of clothing worn by Hurst on the night of the murder, but with one exception in about fifteen or twenty witnesses all testified that he wore a sack coat without any overcoat; some of them thought it was a canvas or duck coat; others thought that it was an ordinary woolen coat; Hurst denied when examined before the Examining Magistrate having had a duck coat for a period of six months, but witnesses swore positively that they knew he was wearing it only a few days before the murder; and at least two of them, one of them being Mrs. Dr. Hunt, swears positively he was wearing the duck or canvas coat on the night of the murder.

It would be useless for me to continue at greater length citing the evidence which tended to establish the identity of Hurst, and that is the sole question to be established. If he is in fact the murderer as twelve men have said beyond a reasonable doubt, and their verdict has been approved by the trial judge who heard all the evidence, and the Supreme Court, then this is not a case that appeals for sympathy or executive clemency except so far as it may affect those who are left behind to mourn the untimely end.

After the most patient and careful consideration of all the facts that have been submitted to me, I cannot believe that I would be justified in interfering with the judgment of the Courts in this case, but that the law must take its course.

Very respectfully,

ROBERT B. SMITH,

Governor of Montana.

Arbor Day Proclamation

The Legislature of Montana prompted by a desire to subserve the best interests of the state have ordained by law one day in each year to be known and designated as Arbor Day.

Nothing that our people can do for any one day in the year will better serve their individual interests or the common good of the state than a proper observance of this day. This season is favorable for the growth of trees, plants, vines and shrubs and everyone should make an especial effort to comply with the law by planting trees, plants, vines and shrubs for the adornment of our homes, public places and ways.

Therefore, I, Robert B. Smith, Governor of the State of Montana, by virtue of the authority in me vested by law, do hereby proclaim May the 8th, A. D. 1900, as ARBOR DAY, and request that all citizens of our commonwealth observe the day and the law by planting trees, plants, vines or shrubs for the adornment and benefit of their homes, public ways and places, and in order that each and every one may be as far as possible enabled to comply with this good and beautiful custom, I do proclaim said 8th day of May, 1900, a Legal Holiday.

(Seal) Done at Helena, the Capital of Montana, this April 14th, A. D. 1900, and of the Independence of the United States of America the one hundred and twenty-fourth.

ROBERT B. SMITH.

By the Governor:

T. S. HOGAN,

Secretary of State.

Thanksgiving Day Proclamation

BY THE GOVERNOR:

A PROCLAMTION.

Executive Office,
Helena, Montana, November 8th, 1900.

Custom has ordained that in each year one day should be set apart and designated as a day of prayer and thanksgiving on which people should, as far as possible, abstain from their usual vocations and turn their thoughts to that providential care which watches over and cares for the destinies of men and nations.

The people of the United States, and especially the people of this splendid commonwealth of Montana, have much cause to be thankful to the all wise Providence for His manifold blessings graciously extended to us. Disease, famine or pestilence have not been serious or prevalent during the past year, but health, plenty and the enjoyment of a most favorable season are conditions which have prevailed in this beloved state. Our people of all classes, whether engaged in mining, farming, stock-raising, or in shops or business centres have been blessed with constant and remunerative labor and have enjoyed such measure of prosperity as altogether brings contentment and happiness to our people.

Therefore in accordance with the long established custom and the proclamation of the President of the United States, I, Robert B. Smith, Governor of the State of Montana, do proclaim

THURSDAY, NOVEMBER 29th, 1900,

as a day for Thanksgiving and Prayer, and urgently request each and every person to abstain from their usual business and vocation and as far as possible assemble at their respective places of worship, there to devote themselves to prayer and songs of thanksgiving to the all wise Creator who has so bountifully and generously blessed our people.

And in order that each and every person may as far as possible be enabled to comply with this request I do proclaim the said 29th of November, 1900, Legal Holiday.

(Seal) Done at Helena, Montana, A. D. 1900, November 8th, and the One Hundred and Twenty-fifth year of our independence. Given under my hand and the Seal of the State.

ROBERT B. SMITH,
Governor.

T. S. HOGAN,
Secretary of State.